



# Governor's Office of Storm Recovery

## **NY Rising Infrastructure Program POLICY MANUAL**

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**September 9, 2021 Version 4.0**

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The policies stated in this manual are current as of September 9, 2021. This Manual represents the current version of the Governor's Office of Storm Recovery's (GOSR) policies which shall provide general guidance for the operation of the GOSR Program. All manuals will be reviewed periodically and will be updated. GOSR will use its best efforts to keep its manuals current. Therefore, you are strongly urged to visit our website [www.stormrecovery.ny.gov](http://www.stormrecovery.ny.gov) or to contact [info@stormrecovery.ny.gov](mailto:info@stormrecovery.ny.gov) to ensure that you have the latest version of GOSR's policies. There may be times, however, when a policy will change before the manual is revised.

# POLICY MANUAL

## NY Rising Infrastructure Program

### Version Control

Version Number	Date Revised	Description of Revisions
Working Draft	2/17/2014	PA Match Program Initial Draft
1.0	8/11/2014	Non-Federal Match Policies and Procedures Manual
Working Draft	6/4/2014	Modified Retrieval Plan
Working Draft	9/4/2014	HMGP Plan Initial Draft
Working Draft	12/16/2014	Modified QA/QC Plan
Working Draft	12/23/2014	Combined Plan to create one Infrastructure Manual
Working Draft	1/13/2015	Added language reflecting match includes two (2) 2013 FEMA events
Working Draft	3/23/2015	Clarified Match Process for Long Island Power Authority
Draft for HUD	4/15/2015	Revised and Clarified Non-Federal Share Match policies and procedures
2.0	6/4/2015	Comprehensive revision of Policies and Procedures for NY Rising Infrastructure Program
2.1	11/21/2016	Revision of Policies and Procedures arising from the August 2015 HUD Monitoring visit
3.0	12/20/2017	Comprehensive revisions, clarifications and updates to Policies and Procedures for NY Rising Infrastructure Program
3.1	11/20/2019	Revised and Clarified Non-Federal Share Match Policies and Procedures
4.0	9/9/2021	Split into separate Policy and Procedure Manual. Comprehensive revisions made to entire manual, including clarifications and updates to Policies for NY Rising Infrastructure Program. The following sections were added: 2.7.1.1 Programmatic Monitoring; 2.7.1.2 External Monitoring; 2.7.4 Audit Requirements; 2.8 Multi-Phase Requirements for Subrecipients; 2.10.7.1 Insurance Waiver; 2.10.10 Design Standards and Construction Specifications for Residential Structures; 2.10.11 Flood Insurance and Substantial Improvement; 2.10.11.1 Flood Insurance; 2.10.11.2 Substantial Improvement; 2.11.3 Resilience Performance Standards; 5.4.4 Covered Project in Natural Resources Infrastructure Sub-Program; Comprehensive edits were made to the following sections: 2.2 Timely Expenditure of Funds; 2.3 Order of Assistance; 2.4 Duplication of Benefits; 2.5 Program Income; 2.10 Applicability of Cross-Cutting Federal Regulations to the Programs; 2.10.8.2 Record Retention; 3.1 Introduction to the Non-Federal Share

		<p>Local Match Program Policies; 3.2 Funding Sources; 4.1.1 Floodplain Management; 4.3 Conforming with the State and Local Hazard Mitigation Plans; 4.5 Environmental Requirements; 4.6 Utility of a Project; 4.9.3 Project Cost; 5.3.1 Standalone Water and Wastewater Treatment Plant Projects; 5.5.1 Project Risk Assessment; 5.5.2 Grant Manager Selection; 5.5.4 Subrecipient Agreement; 5.5.8 Documenting Project Changes; 5.5.9 Environmental Review; 5.5.10 Project Delivery and Project Administration Costs; 5.5.11 Subrecipient Procurement; 5.5.12 Recapture; 5.5.13 Canceled Projects; 5.5.14.1 Subrecipient Payment;</p> <p>Minor edit for the following sections: Manual Overview; Meeting CDBG-DR Program Goals; 2.1.1 Tie to the Storm; 2.1.2 Meeting National Objective; 2.1.3 Meeting an Eligible Activity; 2.10.7 Insurance and Property Management; 3.6 Environmental Review for Non-Federal Share Match Payments – Special Provisions Concerning Use of FEMA’s process; 4.9 HMGP Project Prioritization and Review; 4.9.2 Feasibility of HMGP Eligibility and Approval; 5.5.5 Pre-Application; 5.5.11 Subrecipient Procurement; 5.5.11.1 Professional Services; 5.5.11.2 Construction Services; 5.5.11.3 Multi-Funded Contracts; 5.5.15 Project Closeout; 5.5.16 Subrecipient Closeout;</p> <p>Additionally, Exhibit 1: Program Administrative Requirements and Cross-Cutting Federal Regulations was updated to conform with language in the rest of the GOSR Policy manuals.</p>
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# Contents

<b>Tables &amp; Figures .....</b>	<b>8</b>
<b>New York State Program Goals .....</b>	<b>9</b>
Introduction.....	9
Oversight of Storm Recovery .....	9
Manual Overview.....	10
Meeting CDBG-DR Program Goals .....	10
Fulfilling the Principles Established by New York State’s Action Plan .....	11
Citizen Participation Plan .....	12
<b>1.0 Summary of NY Rising Infrastructure Program and Funding Resources.....</b>	<b>13</b>
1.1 Non-Federal Share Match Program .....	13
1.2 Local Government and Critical Infrastructure Program .....	14
<b>2.0 HUD Requirements for NY Rising Infrastructure Projects .....</b>	<b>15</b>
2.1 Tie to the Storm, National Objective, and Eligible Activity.....	15
2.1.1 Tie to the Storm.....	15
2.1.2 Meeting a National Objective .....	16
2.1.3 Meeting an Eligible Activity .....	19
2.2 Timely Expenditure of Funds .....	20
2.3 Order of Assistance.....	20
2.4 Duplication of Benefits .....	21
2.5 Program Income.....	22
2.6 Programmatic Compliance Check .....	23
2.7 Monitoring and Compliance Department (MCD).....	23
2.7.1 Monitoring Department.....	23
2.7.2 Compliance Department.....	24
2.7.3 Technical Assistance to Subrecipients .....	25
2.7.4 Audit Requirements .....	25
2.8 Multi-Phase Requirements for Subrecipients .....	26
2.9 Investigations .....	26
2.10 Applicability of Cross-Cutting Federal Regulations to the Programs .....	26
2.10.1 Davis-Bacon Labor Standards.....	26
2.10.2 Force Account Labor.....	27
2.10.3 Minority- and/or Women-Owned Business Enterprises .....	28
2.10.4 Section 3.....	28
2.10.5 Uniform Relocation Act and Real Property Acquisition .....	28
2.10.6 Financial Management.....	30
2.10.7 Insurance and Property Management.....	30
2.10.8 Recordkeeping, Retention and File Management .....	32
2.10.9 Audit Trail.....	33
2.10.10 Design Standards and Construction Specifications for Residential Structures.....	34
2.10.11 Flood Insurance and Substantial Improvement.....	35
2.11 Infrastructure Requirements.....	35
2.11.1 Comprehensive Risk Analysis .....	36
2.11.2 Green Infrastructure .....	36
2.11.3 Resilience Performance Standards.....	36
2.12 Covered Project Requirements .....	37
2.12.1 Sandy Regional Infrastructure Resilience Coordination Group (SRIRC) .....	38
2.13 Prohibition of Assistance to Private Utilities.....	39

2.14 Iran Divestment Act.....	39
<b>3.0 Non-Federal Share Local Match Program Policies .....</b>	<b>40</b>
3.1 Introduction.....	40
3.2 Funding Sources.....	41
3.2.1 Federal Emergency Management Agency .....	41
3.2.2 Other Federal Agencies.....	42
3.3 Determining the Non-Federal Share Amount .....	42
3.4 Eligibility .....	43
3.4.1 Eligible Activities (For PA Match only).....	43
3.4.2 Eligible Applicants.....	43
3.4.3 National Objective Documentation and Records.....	45
3.4.4 Duplication of Benefits .....	45
3.5 Project Review Order.....	46
3.5.1 FEMA Category (for PA Match only) .....	46
3.5.2 Project Size.....	47
3.6 Environmental Review for Non-Federal Share Match Payments – Special Provisions Concerning Use of FEMA’s process .....	48
3.7 Non-Federal Share Match Program Payment Policy .....	49
3.7.1 FEMA Transitional Shelter Assistance Payments .....	49
3.7.2 Long Island Power Authority Payments .....	50
<b>4.0 Hazard Mitigation Grant Program Global Match Strategy Policy.....</b>	<b>51</b>
4.1 Global Match Strategy .....	52
4.1.1 Floodplain Management.....	54
4.1.2 Infrastructure .....	55
4.2 HMGP Requirements.....	55
4.3 Conforming with the State and Local Hazard Mitigation Plans .....	56
4.4 Beneficial Impact .....	57
4.5 Environmental Requirements.....	58
4.6 Utility of a Project.....	59
4.7 Cost-Effectiveness .....	59
4.8 CDBG-DR Criteria .....	59
4.8.1 Eligibility for CDBG-DR funded Global Match Projects Floodplain Management....	60
4.8.2 Eligibility for CDBG-DR funded Global Match projects – Infrastructure Program ...	60
4.9 HMGP Project Prioritization and Review.....	60
4.9.1 Location and LMI Benefit of a Project .....	61
4.9.2 Feasibility of HMGP Eligibility and Approval.....	61
4.9.3 Project Cost .....	62
<b>5.0 Local Government and Critical Infrastructure Program Policies.....</b>	<b>63</b>
5.1 Energy Infrastructure .....	63
5.1.1 CDBG-DR Microgrids.....	63
5.2 Local Government Support Program .....	66
5.2.1 Eligible Counties.....	66
5.2.2 Eligible Subrecipients .....	66
5.2.3 Allocation Methodology .....	66
5.2.4 Project Selection.....	67
5.3 Water and Wastewater Treatment Facilities .....	68
5.3.1 Standalone Water and Wastewater Treatment Plant Projects .....	68
5.4 Natural Resources Infrastructure .....	69
5.4.1 Eligible Counties and Geography .....	69

5.4.2 Eligible Subrecipient.....	69
5.4.3 Eligible Applicants.....	70
5.4.4 Covered Project in Natural Resources Infrastructure Sub-Program .....	70
5.5 Local Government and Critical Infrastructure Program Implementation Policies .....	70
5.5.1 Project Risk Assessment .....	70
5.5.2 Grant Manager Selection.....	71
5.5.3 Subrecipient Selection and Capacity.....	71
5.5.4 Subrecipient Agreement.....	73
5.5.5 Pre-Application .....	74
5.5.6 Application.....	74
5.5.7 Application Approval.....	75
5.5.8 Documenting Project Changes .....	75
5.5.9 Environmental Review.....	77
5.5.10 Project Delivery and Project Administration Costs .....	78
5.5.11 Subrecipient Procurement .....	79
5.5.12 Recapture.....	82
5.5.13 Canceled Projects .....	83
5.5.14 Payment.....	84
5.5.15 Project Closeout .....	85
5.5.16 Subrecipient Closeout .....	86
<b>6.0 Definitions and Acronyms.....</b>	<b>87</b>
6.1 Definitions.....	90
<b>Exhibit 1: Program Administrative Requirements and Cross-Cutting Federal Regulations .....</b>	<b>97</b>
Americans with Disabilities Act (ADA) and Section 504 .....	97
Davis-Bacon Act and Related Acts (DBRA).....	98
New York State Prevailing Wages .....	98
Contract Work Hours & Safety Standards Act.....	99
The Copeland "Anti-Kickback" Act .....	99
Equal Employment Opportunity (EEO).....	99
Fair Housing.....	99
Fair Labor Standards Act of 1938, as Amended (FLSA) .....	100
Limited English Proficiency (LEP) .....	100
Minority and/or Women-Owned Business Enterprises (M/WBE) .....	100
Section 3.....	101
Residential Anti-Displacement .....	101
Uniform Relocation Assistance and Real Property Acquisition Act .....	101
Real Property .....	102
Financial Management.....	103
Procurement Policy .....	103
Record Keeping, Retention, and File Management .....	103
Reporting.....	104
Record Retention.....	105
Access to Records .....	105
Audit Trail .....	106
Conflicts of Interest and Confidentiality.....	106
Conflicts of Interest.....	106
Confidentiality/Privacy .....	107
Recapture Policy .....	107

<b>Exhibit 2: Table of Appendices.....</b>	<b>109</b>
Appendix 1 – Program Administrative Requirements and Cross-cutting Regulations .....	110
Appendix 2 – Citizen Participation Plan.....	122
Appendix 3 – Disaster Impact Maps.....	128
Appendix 4 – HUD Davis Bacon Guidance Letter.....	136
Appendix 5 – National Objective Service Area Mapping Methodology.....	138
Appendix 6 – Environmental Review .....	139
Appendix 7 – GOSR Document Collection Letter for Hurricane Irene and Tropical Storm Lee Allocation Applicants to the FEMA Non-Federal Share Local Match Program.....	142
Appendix 8 – Non-Federal Share FEMA Public Assistance Local Match Program Documentation Collection letters to Applicants and Checklist templates.....	143
Appendix 9 - FEMA Public Assistance Non-Federal Share Local Match Program Procurement and Compliance Procedures.....	149
Appendix 10 - FEMA Public Assistance Non-Federal Share Local Match Program Procurement and Compliance Procedures .....	155
Appendix 11 – HMGP Global Match Strategy Approval Letters.....	159
Appendix 12 – NY Prize CDBG-DR Risk Assessment Tool .....	179
Appendix 13 – GOSR Local Government and Critical Infrastructure Pre-Application .....	180
Appendix 14 – GOSR Local and Critical Infrastructure Application.....	183

## Tables & Figures

### Tables

Table 1: Required Documentation to Meet a National Objective .....	18
Table 2: Non-Federal Share Match Subprograms and Their Corresponding Policies .....	40
Table 3: Federal Programs and Share Rate Eligible Under The State’s Match Program.....	42
Table 4: NYS Declared Disasters Associated With HMGP.....	51
Table 5: Sample Typical HMGP Project Breakdown .....	53
Table 6: HMGP Global Match Strategy .....	53
Table 7: HMGP Criteria Summary.....	56
Table 8: Goals of the 2019 State Hazard Mitigation Plan.....	56
Table 9: Goals of the 2014 State Hazard Mitigation Plan.....	57
Table 10: CDBG-DR Criteria Summary .....	60
Table 11: Total Allocation Breakdown by County .....	67
Table 12: Commonly used acronyms .....	87

### Figures

Figure 1: Sample Standard HMGP Project Breakdown .....	53
Figure 2: HMGP Global Match Strategy.....	53



# New York State Program Goals

## Introduction

In response to the damage caused by Superstorm Sandy and other natural disasters that occurred across the nation in 2011, 2012, and 2013, the U.S. Congress, through Public Law (P.L.) 113-2, appropriated \$16 billion in Federal Fiscal Year 2013 funds for the Community Development Block Grant - Disaster Recovery (CDBG-DR) program. Enacted on January 29, 2013, P.L. 113-2 stipulates that these funds must be used for the following recovery efforts:

*“...necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) due to Hurricane Sandy and other eligible events in calendar years 2011, 2012, and 2013, for activities authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.): Provided, that funds shall be awarded directly to the State or unit of general local government as a grantee at the discretion of the Secretary of Housing and Urban Development...”*

Prior to the appropriation in Fiscal Year 2013, in 2011, the U.S. Congress also appropriated \$400,000,000 to support recovery from Hurricane Irene and Tropical Storm Lee through P.L. 112-55. This appropriation provided federal disaster aid to address damaged public infrastructure and housing caused by these events and provided New York State (NYS) with \$93,213,963 to assist communities with flood recovery. NYS Homes and Community Renewal (HCR), through its Office of Community Renewal, received \$71,654,116 of this total. This brought the total CDBG-DR allocation to the State to \$4,416,882,000.

As required by April 16, 2012, Federal Register Notice (FR-5628-N-01), NYS outlined the disaster recovery initiatives for Hurricane Irene and Tropical Storm Lee in the *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery* which was submitted to the U.S. Department of Housing and Urban Development (HUD) in July of 2012. Additionally, as required by March 5, 2013, Federal Register Notice (FR-5696-N-01), the State of New York outlined the disaster recovery initiatives for Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee in the *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery* (Action Plan) which was submitted to HUD in April of 2013. The State has subsequently amended the Action Plan through Action Plan Amendments. The Action Plan and all amendments are available at [www.stormrecovery.ny.gov](http://www.stormrecovery.ny.gov).

## Oversight of Storm Recovery

Governor Cuomo established the Governor’s Office of Storm Recovery (GOSR), a program of the Housing Trust Fund Corporation (HTFC) in June 2013 to maximize the coordination of recovery and rebuilding efforts in municipalities throughout NYS affected by Superstorm Sandy, Hurricane Irene, Tropical Storm Lee, and other disasters. GOSR operates within HTFC. HTFC is a component of HCR, a unified leadership platform, encompassing a variety of NYS agencies

and public benefit corporations involved in the provision of housing and community renewal. GOSR was formed to direct the administration of the CDBG-DR Funds.

GOSR works in close collaboration with other Federal and State agencies engaged in disaster recovery, to support rebuilding and recovery actions in NYS, and coordinate and provide funding to local governments and public entities in storm-damaged counties. GOSR collaborates with local and community leaders to respond to their communities' most urgent rebuilding needs and identifies long-term and innovative solutions to strengthen the State's infrastructure and critical systems. GOSR also administers a variety of programs related to housing recovery, economic development, and community reconstruction following the devastating impact of Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee.

## **Manual Overview**

This Manual lays out the policies of the Infrastructure Program. GOSR-wide policies are included in Exhibit 1. The Manual's intended audience is the interested public, subrecipients, GOSR staff, and other agency staff. The Infrastructure Program Procedure Manual provides in-depth information on implementing the procedures associated with the policies outlined in this Manual. GOSR staff and consultants utilize the Policy and Procedure Manuals to provide Technical Assistance (TA) to subrecipients to ensure compliance in key areas including, but not limited to financial management, procurement, Equal Opportunity, Section 3, environmental review, relocation and acquisition, insurance & property management, construction, record keeping, reporting, single audit, reimbursements, and monitoring.

This Manual, the NYS Action Plan, and subsequent amendments, and the policy manuals for other NY Rising programs are available for public review and use at <http://www.stormrecovery.ny.gov>.

## **Meeting CDBG-DR Program Goals**

To meet HUD disaster recovery objectives, NYS has specifically designed programs to help impacted residents and communities recover from the damage inflicted by storms in 2011, 2012, and 2013. As expressed in the Federal Housing and Community Development Act, the primary objective of the general Community Development Block Grant (CDBG) program is "the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low- and moderate-income (LMI)." CDBG funding appropriated in response to disasters must also meet this general objective.

All CDBG-DR funded Infrastructure activities, except for program administration and planning activities, must meet one of the three national objectives required under the authorizing statute of the CDBG program:

- Benefit LMI persons;
- Aid in the prevention or elimination of slums or blight (Slum and Blight); or
- Meet a need having a particular urgency (Urgent Need).

Activities must also meet at least one CDBG-DR program eligible activity and demonstrate a tie to one of the presidentially declared disaster events, outlined in the Federal Register Notices, as well as Section 2.1 of this Manual.

## **Fulfilling the Principles Established by New York State's Action Plan**

The Infrastructure Program is expected to encourage recovery in communities by ensuring that they are not just rebuilt to pre-storm condition, but to the extent feasible, become safer, especially in areas where there is a high risk of future flooding. The program also strives to revitalize the vibrancy of NYS's disaster-impacted communities, while enhancing the quality of life of storm-impacted residents, and help communities develop and implement strategies that facilitate the coordination and use of the CDBG-DR funding with other Federal, State, and local community development resources.

The Infrastructure Program activities outlined in the Action Plan are based on the foundation of six key principles:

1. ***Building back better and smarter*** – As New York communities work to repair the severe damage caused by Superstorm Sandy and other events, the State uses the recovery programs as an opportunity to ensure that damaged infrastructure is not simply restored to its pre-storm condition or replaced with the same kind of structures. Instead, NYS will invest in additional mitigation measures to prevent similar damage from occurring in the future;
2. ***State-led, community-driven recovery*** – NYS will collaborate closely with local governments and other organizations to ensure a coordinated and holistic response, while enabling and assisting individual communities to develop forward-looking local recovery plans that meet their specific needs;
3. ***Recovery from Irene, Lee, Sandy, Nemo and Upstate Severe Storms and Flooding*** – Recovery efforts will also extend to those communities recovering from Hurricane Irene and Tropical Storm Lee in 2011, along with those impacted by Winter Storm Nemo and Upstate Severe Storms and Flooding in 2013;
4. ***Leveraging private dollars and maximizing public funds*** – NYS seeks to develop programs that will help unlock capital markets and increase the amount of low-interest financing of key projects by reducing risk for private-sector lenders and increasing the funds available to assist local governments to initiate projects. NYS will also work with individual communities and federal recovery agencies to maximize available recovery dollars so that communities engaged in recovery actions will not be forced to borrow or bond out recovery to undertake storm-related repairs;
5. ***Spending accountability and transparency*** – NYS will implement rigorous controls and checks to ensure funds are spent responsibly and in compliance with Federal and State guidelines; and
6. ***Urgency in action*** – Recovery is a long-term endeavor, but people need immediate help. The projects and programs presented in the Action Plan have been shaped to achieve the fastest delivery and best support possible, while working within the parameters of HUD guidelines.

## **Citizen Participation Plan**

The NYS Citizen Participation Plan (CPP) provides New York citizens an opportunity to participate in the planning, implementation, and assessment of the State's CDBG-DR recovery program. The Plan sets forth policies and procedures for citizen participation, in accordance with federal regulations, which are designed to maximize the opportunity for citizen involvement in the community development process. The State has attempted to provide all citizens with the opportunity to participate, with emphasis on LMI individuals, individuals with Limited English Proficiency (LEP), and individuals requiring special accommodations due to disabilities. The State's CPP ensures that there is reasonable and timely access for public notice, appraisal, examination, and comment on the activities proposed for the use of CDBG-DR grant funds.

In following HUD's guidance in the November 2013 Federal Register, substantial Action Plan Amendments now include a thirty-day public period with at least one public hearing. The State has and will continue to, coordinate technical and programmatic outreach meetings with State entities, local governments, non-profits, the private sector, and involved associations. The State invites public comments to the Action Plan and Substantial Amendments as required by HUD. These documents are posted prominently and can be accessed on GOSR's official website. The State uses means such as press releases, posting notices on the NYS Governor's website and/or GOSR's website, to maximize the access of program information to the impacted citizens and businesses. The NY CPP for CDBG-DR Sandy, Irene, and Lee recovery can be reviewed in the NYS Action Plan.

For the Non-Federal Share Match Program outlined in Section 1.1 of this Manual, the eligibility of applicants who may participate in the GOSR program is governed by the rules and regulations of the primary federal funding agency, the Federal Emergency Management Agency (FEMA). Therefore, only applicants who have applied and are accepted into the federal recovery programs are eligible for participation in GOSR's Non-Federal Share Match Program. The FEMA programs require a local match, non-federal share contribution from the applicant who applied for assistance as a requirement to draw federal funds. CDBG-DR funding has the flexibility to be utilized as the match funding for these programs and those applicants. GOSR has an outreach process for these applicants which is outlined further in Section 3.4.2.3 of this Manual. This includes conducting technical and programmatic on-site TA meetings with State entities, local governments, and non-profits, and providing webinars and direct correspondence to inform them about the CDBG-DR program and related requirements.

For the Local Government and Critical Infrastructure Program, GOSR follows both the CPP, which can be reviewed in the NYS Action Plan, along with additional requirements stipulated by HUD for Covered Projects as needed, as detailed in Section 2.12 of this Manual.

# 1.0 Summary of NY Rising Infrastructure Program and Funding Resources

The State's Infrastructure Program utilizes CDBG-DR funds to address two primary needs: (1) providing support to storm-impacted units of government and other eligible entities with payment of their Non-Federal Share "local match" requirement so that they can access other federal disaster recovery resources without incurring an unexpected financial burden to address recovery needs; and (2) providing funds to units of government to develop "stand-alone" infrastructure projects which are funded with up to 100% CDBG-DR funding, that are necessary to address identified unmet disaster recovery needs in communities and counties that are not funded by other federal recovery programs. Consequently, the Infrastructure Program has two Sub-Programs:

1. Non-Federal Share Local Match Program; and the
2. Local Government and Critical Infrastructure Program.

The State continues to work with all federal partners to maximize available repair and mitigation funds that these agencies can provide. In particular, the State has been working to develop solutions to address the recovery needs of local, county, and State government agencies, and has been focused on ensuring that publicly-owned critical infrastructure assets in the energy, health care, public housing, transportation, and wastewater sectors are not only identified and funded but are being repaired and constructed in more resilient ways. This is intended to create a more resilient environment for New York's residents and to safeguard the billions of dollars of federal investment provided to recover and rebuild New York following these disasters.

## 1.1 Non-Federal Share Match Program

Many federal disaster recovery programs require that grant recipients, including units of government and eligible non-profit organizations, provide a Non-Federal Share match, also referred to as "local match," which is a portion of their overall project budget as a condition of receiving disaster funding. In the aftermath of large disasters, this requirement can place a significant fiscal burden on storm-damaged communities and slow recovery as communities struggle to identify the financial resources to meet the requirements. To provide relief to these entities, Congress allows CDBG-DR funds to be a source of federal funding that can be used for the Non-Federal Share contribution.

GOSR has designed the Non-Federal Share Match Program to assist storm-impacted entities with the cost-share associated with other federal disaster recovery funds. Specifically, the program uses CDBG-DR funds to provide the required local match payment so that eligible entities can complete recovery and draw down the larger share of federal recovery funds. Local match rates for each of the federal programs vary by both disaster and funding agency, ranging from a 10% local share to 25% local share per project. These are further defined in Section 3.3.

The Non-Federal Share Match Program provides the local match to public entities (applicants) that have received disaster recovery funds from various federal agencies to address impacts from seven Presidentially declared events: Hurricane Irene (DR-4020), Tropical Storm Lee (DR-

4031), Superstorm Sandy (DR-4085), Severe Winter Storms and Snowstorms (DR-1957), Severe Storms, Flooding, Tornadoes, and Straight Winds (DR-1993), Upstate Severe Storms and Flooding (DR-4129) and Winter Storm Nemo (DR-4111). The program allows applicants to complete, repairs, rebuilding, replacement, and/or mitigation of facilities damage sustained from these events to occur in a timely manner.

The program currently assists public entities with match obligations from FEMA programs. A summary of funding sources is provided in Section 3.2.

## **1.2 Local Government and Critical Infrastructure Program**

The majority of local governments' recovery needs are being addressed through the Non-Federal Share Match Program described above. However, the State has developed the Local Government and Critical Infrastructure Program to provide resources to storm-damaged units of government and communities which have identified recovery gaps in funding for public services and critical infrastructure that benefit the community and region. Under this program, CDBG-DR funds are used to repair, rebuild, enhance, or mitigate facilities that were impacted by Superstorm Sandy, Tropical Storm Lee, and Hurricane Irene, Winter Storm Nemo and the Upstate Severe Storms and Flooding. The Local Government and Critical Infrastructure Program has four sectors:

1. Energy Infrastructure;
2. Local Government Program;
3. Water and Wastewater Infrastructure; and
4. Natural Resource Infrastructure.



## 2.0 HUD Requirements for NY Rising Infrastructure Projects

All projects in the Infrastructure Program must comply with the requirements in this section. Other program-specific policies and procedures are outlined in subsequent sections of this Manual.

### 2.1 Tie to the Storm, National Objective, and Eligible Activity

Before any activity can be funded in whole or in part with CDBG-DR funds, the activity must be determined eligible under Title I of the Housing and Community Development Act (HCDA), as amended.

#### 2.1.1 Tie to the Storm

All activities funded with CDBG-DR in the Infrastructure Program must in some way respond to a direct or indirect impact of one of the following federally declared disasters:

- DR-4020 Hurricane Irene (2011);
- DR-4031 Tropical Storm Lee (2011);
- DR-4085 Superstorm Sandy (2012);
- DR-4111 Winter Storm Nemo (2013); and
- DR-4129 Upstate Severe Storms and Flooding (2013).

FEMA, as the nation's primary disaster response agency, operates four distinct recovery programs that each requires a local match: Public Assistance (PA) Program; Hazard Mitigation Grant Program (HMGP); Individual Assistance (IA) Program; and Transitional Shelter Assistance (TSA) Program (a distinct IA sub-program). FEMA disaster recovery programs, along with the Environmental Protection Agency (EPA) disaster recovery programs, require clear documentation showing a direct storm-related impact as a prerequisite for entry into these programs and funding. Only after an impact threshold has been met will the lead federal agency consider making disaster funds available to the applicant.

It is assumed that if the applicant received funding and support through one of the federal recovery programs identified above, the applicant was impacted by one or more of the declared disasters. GOSR's Non-Federal Share Match Program will not fund projects that are not responding to an impact of a federally declared disaster. For the FEMA Public Assistance program, the tie to the storm is documented by FEMA's approval of the Project Worksheet (PW) for a particular declared disaster.

For Local Government, Critical Infrastructure, and HMGP Infrastructure projects, the tie to the storm is documented as a part of the **Application** process and project-specific **Tie-back to the Storm Memo**, and these documents are stored in the project files.

A project may be tied to the storm in multiple ways, including:

- The storm may have caused the Infrastructure to fail to function;
- The storm may have caused damage to the public Infrastructure; and/or

- The Infrastructure or activity may be needed for the community’s successful long-term recovery from the storm and for protection from similar events.

### 2.1.1.1 Geographical Eligibility

CDBG-DR funds can only be used in counties that were presidentially declared disaster areas. GOSR will only utilize and provide funds for work in these counties. A list of the counties is shown below, and maps of the disasters are shown in Exhibit 2. Following each allocation, HUD required the State to utilize 80% of the overall allocation of funds in HUD-defined ‘most impacted and distressed’ counties, as outlined in the federal notices. The specific counties for Hurricane Irene, Tropical Storm Lee, and Superstorm Sandy allocations are shown below. These counties include:

- **Tropical Storm Lee (4020) and Hurricane Irene (4031):** HUD-defined most impacted counties are: Broome, Greene, Schoharie, and Tioga counties. Entities located in other presidentially-declared counties can also receive CDBG-DR funds: Albany, Bronx, Chemung, Chenango, Clinton, Columbia, Delaware, Dutchess, Essex, Franklin, Fulton, Hamilton, Herkimer, Kings, Montgomery, Nassau, New York, Oneida, Orange, Otsego, Putnam, Queens, Rensselaer, Richmond, Rockland, Saratoga, Schenectady, Suffolk, Sullivan, Tompkins, Ulster, Warren, Washington, and Westchester;
- **Superstorm Sandy (4085):** HUD-defined most impacted counties are: Nassau, Suffolk, Rockland, Westchester, Bronx, New York, Queens, Kings, and Richmond. Entities located in other presidentially declared counties can also receive CDBG-DR funds: Greene, Ulster, Putnam, Sullivan, and Orange;
- **Winter Storm Nemo (4111):** HUD did not define the most impacted counties. Suffolk County was the only declared county for this event; and
- **Upstate Severe Storms and Flooding (4129):** HUD did not define the most impacted counties. Entities located in these presidentially declared counties can receive CDBG-DR funds: Allegany, Broome, Chautauqua, Chenango, Clinton, Cortland, Delaware, Essex, Franklin, Herkimer, Madison, Montgomery, Niagara, Oneida, Otsego, and Warren.

### 2.1.2 Meeting a National Objective

As previously mentioned, all activities funded with CDBG-DR, except for program administration and planning activities, must meet one of the three national objectives:

- Benefit LMI persons;
- Aid in the prevention or elimination of slums or blight (Slum and Blight); or
- Meet a need having a particular urgency (Urgent Need).

The Infrastructure Program is not currently utilizing the Slum and Blight National Objective.

The following four tests are used for determining whether a project primarily benefits LMI persons and qualifies under the LMI national objective:



1. Area benefit test: The project benefits all residents of a primarily residential area where at least 51% of the residents are persons of LMI;
2. Housing benefit test: CDBG-DR assisted housing is occupied by LMI households;
3. Jobs test: At least 51% of the jobs created or retained with CDBG-DR assistance are held by or are available to LMI people (“available to” means no special education or training is necessary); and/or
4. Limited clientele test: The project is limited to benefiting a specific group of persons, at least 51% of whom are LMI, or is limited to serving LMI person only. Some activities, such as services for elderly people, are presumed to benefit lower-income people, although the presumption can be challenged based on the facts and circumstances of the project.

As of April 2019<sup>1</sup>, the data source for determining whether a project qualifies under the LMI national objective is the HUD LMI summary data (LMISD) based on the American Community Survey 2011-2015 5-year estimates (2011-2015 ACS), as described in the HUD Notice CPD-19-02. These data replace the prior LMISD based on the American Community Survey 2006-2010 5-year estimates (2006-2010 ACS).

For projects where the 2006-2010 ACS LMISD data determined that the project qualified under the LMI national objective, but the 2011-2015 ACS LMISD for that same geographic area does not demonstrate meeting the LMI national objective, the prior 2006-2010 ACS LMISD may be used to demonstrate area benefit compliance by meeting the *four-part test* as described in CPD-10-02. In such cases, a **Four-Part Test Memo** is drafted for the project to demonstrate compliance with the four-part test and allowable usage of 2006-2010 ACS LMISD data.

Projects that do not qualify under the LMI national objective are classified as Urgent Need (UN). The certification requirements for the documentation of UN located at 24 CFR 570.483(d) have been waived. For the HMGP Match and Local Government and Critical Infrastructure Programs, the project **Application** must document how the project responds to a disaster-related impact identified by GOSR. In addition to these documents, a project’s tie to the disaster is reflected in each project’s **Tie-back to the Storm Memo**. The **Tie-back to the Storm Memo** broadly describes the damage from the storm to the community and how the Infrastructure project responds to specific storm damage.

The CDBG-DR regulations state that a project is not considered as meeting a national objective until it is complete. GOSR will track each project through the completion and closeout phase.

#### **2.1.2.1 National Objective Documentation and Records**

Program records must demonstrate that funded activities meet a national objective. Depending on the national objective, the files must contain, at a minimum, the documentation described in Table 1. This documentation may also be used in reporting performance measures.

Table 1: Required Documentation to Meet a National Objective

National Objective	Required Documentation
LMI Area Benefit	<ol style="list-style-type: none"> <li>1. Boundaries of the service area of activity</li> <li>2. Census data including total persons and percentage LMI</li> <li>3. Evidence area is primarily residential</li> <li>4. Survey documentation (if applicable).</li> </ol>
LMI Limited Clientele	Documentation that the beneficiaries are or are presumed to be LMI (by category).
LMI Housing	If applicable, income documentation for all household members 18 years of age and older
Urgent Need	Per March 5, 2013, Federal Register Notice (FR-5696-N-01) as modified by February 12, 2016, Federal Register Notice (FR-5696-N-18), UN documentation requirements are waived until the end of the grantee's expenditure deadline.
Slum and Blight	<ol style="list-style-type: none"> <li>1. Designation of an area as Slum and Blight</li> <li>2. Spot designation for Slum and Blight.</li> </ol>

Infrastructure Program records demonstrate that funded activities meet one of the national objectives. The Infrastructure Program does not utilize the slum and blight national objective at this time. The types of records to be maintained for each CDBG-DR funded activity depend on the national objective category for which they qualify. For all infrastructure projects, except for GOSR's Public Assistance Non-Federal Share Local Match Program ("the PA Match Program"), an initial determination of the expected national objective is completed during the application process based on HUD guidance. For the PA Match Program, GOSR's Research and Strategic Analysis (RSA) team works closely with the PA recipient, Infrastructure Program staff, and FEMA representatives to accurately determine and document the national objective of each activity.

The scale of the PA Match Program necessitates adopting a broad-based approach using repeatable methodologies to determine the national objective. To demonstrate the national objective for each activity, GOSR draws upon the best available HUD-approved data. Determining the service area of an activity involves consideration of the nature, location, and accessibility of each activity, as well as the type of applicant and the information contained within the PW (e.g. the FEMA PA Category). Service areas are based on the beneficiaries of recovery activities and/or types of facilities (e.g. debris removal, work on roads and bridges, schools, wastewater treatment facilities, etc.) and geographic features (e.g. locations of highway, rivers, etc.) and local population characteristics (e.g. population size and density). Wherever possible, GOSR leverages pre-defined service areas, mapped by NYS and federal agency partners, and may be informed by best practices developed by other HUD grantees, to establish methodologies to define service areas. This approach enables GOSR to process projects and address the needs of communities in a timely and HUD-compliant manner.

Service area documentation, including maps and memoranda, is saved in the respective PW folders for the Non-Federal Share Match Program. For Area Benefit activities, HUD LMISD

and NYS tax parcel data or New York City Land Use data are used to determine that the activities meet the LMA requirements.

### **2.1.3 Meeting an Eligible Activity**

For a detailed overview of the eligible activity requirements for CDBG, please refer to ‘24 CFR 570 – Community Development Block Grants Subpart C – Eligible Activities’<sup>2</sup>. All CDBG-DR funded activities must meet one of the eligible activities outlined in Section 105(a) of HCDA<sup>3</sup>, or relevant Federal Register Notices.

The Infrastructure Program primarily uses the HUD eligible activities listed below:

1. Acquisition of real property, public facilities and improvements, clearance, rehabilitation, reconstruction, and construction of buildings;
2. Disposition of real property, including costs associated with maintenance and transfer of acquired properties;
3. Provision of public services, such as job training;
4. Infrastructure projects including but not limited to the payment of the non-Federal share of other Federal matching grant programs;
5. Relocation associated with projects that utilize one or more of the other eligible activities listed here;
6. Activities carried out through non-profits;
7. Assistance to neighborhood-based organizations, local development corporations, and non-profits serving the development needs of communities;
8. Energy efficiency/conservation programs; and
9. Economic Revitalization activities.

The following activities are ineligible for the use of CDBG-DR funds in the Infrastructure Program:

1. Activities that do not address an identified disaster-related impact;
2. Activities that address preparedness measures that are not part of a recovery/rebuilding activity;
3. Activities that are ineligible per 24 CFR 570.207 or the CDBG-DR regulations and a waiver has not been granted; and
4. Activities that fail to meet a National Objective.

For the Non-Federal Share Program, the eligible activity is defined by the FEMA Category of Work and is documented in the program’s system of record (see Section 3.5.1).

Eligible FEMA PA categories of work are set out in Section 3.4.1.

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<sup>2</sup> 24 CFR Part 570 – Community Development Block Grants.

<https://www.hudexchange.info/resource/3689/24-cfr-part-570-cdbg/>

<sup>3</sup> <https://www.hudexchange.info/sites/onecpd/assets/File/CDBG-State-National-Objectives-Eligible-Activities-Appendix-A.pdf>

September 9, 2021

## 2.2 Timely Expenditure of Funds

As per the Appropriations Act (P.L. 113-2) (Sandy), CDBG-DR funds must be obligated no later than September 30, 2017 and expended within two years of the date funds are obligated, unless a waiver is granted by HUD. GOSR obligated all of its P.L. 113-2 funds from HUD in January 2017. In May 2017, an expenditure extension was approved by HUD, extending to September 30, 2022 the expenditure deadline for some of GOSR's obligated funds. Per the Consolidated Appropriations Act of 2021, enacted on December 27, 2020, GOSR received an expenditure extension for its obligated funds to September 30, 2023 for P.L. 113-2. Public Law 112-55 (Irene/Lee) funds are not subject to the same deadlines.

## 2.3 Order of Assistance

Following the hierarchy of funding enumerated in the Stafford Act, CDBG-DR funds will never displace other available funds (see Duplication of Benefits Section 2.4). FEMA regulations at 44 CFR 206.191 make clear the order of funding assistance, and, as noted in November 16, 2011, Federal Register Notice (76 FR 71060), "Since CDBG disaster recovery provides long-term recovery assistance via supplemental congressional appropriations, and falls lower in the hierarchy of delivery than FEMA or Small Business Administration (SBA) assistance, it is intended to supplement rather than supplant these sources of assistance."

Projects developed and/or funded by the Program are reviewed for applicability and eligibility against other Federal disaster recovery programs managed by FEMA and U.S. Army Corps of Engineers (USACE) to determine whether Order of Assistance (OOA) issues exist.

Starting in November 2018, the Critical Infrastructure & Local Government and HMGP Match Programs check infrastructure projects for OOA compliance during the implementation of a project, and upon project closeout.

The FEMA Emergency Management Mission Integrated Environment (EMMIE) and MB3 databases are reviewed to identify whether a project with the same or overlapping scope with an Infrastructure project received FEMA PA or HMGP funding and requested that FEMA deobligate the funding so that CDBG-DR funding could be used. Additionally, as new EMMIE data is released, Infrastructure Program staff review the entire database for projects that FEMA deobligated funds, to ensure none of these projects are the same or have an overlapping scope with an Infrastructure project.

The Critical Infrastructure & Local Government and HMGP Match Program Staff also ensure that Infrastructure projects could not have been funded by USACE funds or other applicable funding. Starting in November 2018, Program staff review the best available information from the USACE to confirm there is no OOA issue with that funding source and engage in ongoing oversight of subrecipients for OOA compliance.

The Critical Infrastructure & Local Government and HMGP Match Programs have a variety of checks to ensure that the OOA requirements associated with GOSR's CDBG-DR funds

established through P.L. 113-2 and P.L. 112-55 are met. These checks are conducted once during implementation and once before closeout, for compliance with the OOA requirements. As of July 2021, an OOA check is also conducted at the time of **Application** acceptance/project approval.

For the FEMA PA Match Program, GOSR is providing non-federal share match payments only. Since these match payments can only be made from non-federal funds, the costs funded by GOSR through this Program are not reimbursable by FEMA, USACE, and other federal programs, so there can be no OOA issues.

Projects funded through GOSR's PA Match Program undergo an additional process to verify that CDBG-DR funds are used as the funding source of last resort. FEMA views the PA Match Program and, through the national disaster response framework, verifies with each applicant that other Federal program funds are not available for a project before awarding PA funds (this includes the use of USACE and EPA funds). The FEMA PA Program then uses a portion of NYS's CDBG-DR allocation to pay the Non-Federal Share for qualifying local government and private non-profit FEMA PA applicants in keeping with OOA requirements.

The nature of the PA Match Program, and the FEMA and GOSR verification processes, ensure that OOA requirements are followed for the CDBG-DR funded portion of match projects.

## 2.4 Duplication of Benefits

Disaster recovery activities may be funded from a variety of both public and private sources. The Stafford Act's prohibition on Duplication of Benefits (DOB) in section 312 (42 U.S.C. 5155) is applicable to all CDBG-DR grants. DOB occurs when financial assistance received from one source, including insurance proceeds; FEMA; SBA; NFIP; other Federal, State or local funding; and other non-profit, private sector, or charitable funding, is provided for the same purpose as CDBG-DR funds provided, in accordance with HUD DOB guidance, found in the November 16, 2011, Federal Register Notice (76 FR 71060).

For the HMGP Match and Local Government and Critical Infrastructure programs, prior to March 2017, only subrecipients submitted a self-certification **DOB questionnaire** and were checked for DOB by the Program. Starting in March 2017, all program participants that are implementing a capital project, as well as all entities that could receive duplicative assistance for the same purpose from another source must complete a self-certification **DOB questionnaire** at two points over a project's lifecycle:

1. Upon submission of a project **Application**; and
2. Upon project closeout.

In the case of non-capital projects, the self-certification **DOB questionnaire** will be submitted twice over a project's lifecycle: (i) upon submission of the **Application** and (ii) upon closeout of the project.

Program staff will review the **DOB questionnaire**, and for capital projects, will also access the FEMA EMMIE and MB3 databases to confirm that there is no DOB resulting from FEMA-PA or HMGP funding. Starting in October 2018, Program staff will also review the USACE database to confirm there is no DOB with that funding source. Program staff conducts this DOB compliance check once during project implementation and once during project closeout. As of July 2021, a DOB compliance check is also conducted at the time of **Application** acceptance/project approval.

Per the subrogation clause in the **Subrecipient Agreement (SRA)** (see Section 5.5.16), subrecipients must return to NYS any funds found to be a DOB, ineligible, unallowable, unreasonable, or non-compensable, no matter the cause. Under this clause, should a subrecipient receive CDBG-DR funding to support an eligible activity and subsequently receive outside funding that would render the CDBG-DR funds a DOB, the duplicative CDBG-DR funds must be returned to GOSR.

In addition to the Infrastructure Program's **DOB questionnaire**, GOSR's Monitoring and Compliance Department (MCD) will check for DOB in their monitoring of subrecipients.

## 2.5 Program Income

The State follows the Program Income requirements of 24 CFR 570.489 consistent with the alternative requirements set out in the March 5, 2013 Federal Register Notice (FR-5696-N-01) and the April 19, 2013 Federal Register Notice (FR-5710-N-01) with regards to program income. Program income is defined, including commonly for Infrastructure purposes, as the "gross income received by a state, a unit of general local government, or a subrecipient of a unit of general local government that was generated from the use of CDBG funds, regardless of when the CDBG funds were appropriated and whether the activity has been closed out." The Federal Register Notices indicate that the Federal awarding agency regulations or the terms and conditions of the federal award may provide for the disposition of program income. GOSR's **SRAs** require that all program income must be reported and returned to the State by default, but may be modified for subrecipient program income retention consistent with 24 CFR 570.489(e) and the alternative requirements of FR-5696-N-01 and FR-5710-N-01.

For FEMA PA Match Program projects, no Program Income will be generated. For the Local Government and Critical Infrastructure Program, as well as the HMGP Match Program, program staff is responsible for reviewing, identifying, and tracking all projects that may generate program income. The subrecipient is also responsible for reporting on whether the activities funded by GOSR will generate revenue or support other revenue-generating activities as part of the completion of the **Subrecipient Quarterly Progress Report (QPR)**. For program participants and applicants that do not submit a **QPR**, it is the responsibility of the Infrastructure Program staff to identify potential program income.

Subrecipients, applicants, or program participants who self-identify or are identified by Infrastructure Program staff as potentially generating program income must fill out a **Program Income Pro Forma** annually, starting in 2018, until the closeout of the **SRA**, unless GOSR determines otherwise.



If, after reviewing the **Program Income Pro Forma**, the entity has or may generate income over \$35,000 a year, the **SRA** or **Project Management Agreement (PMA)** must be amended to reflect the generation of program income and how it will be returned to the State or retained by the subrecipient for eligible disaster recovery activities.

At subrecipient closeout (see Section 5.5.16), if program income has been or is expected to be generated, all program income is required to be returned to the State, and subrecipients, applicants, and program participants are no longer able to retain program income. Subrecipients, applicants, or program participants are required to complete a final **Long-Term Pro Forma** to disclose any anticipated future generation of program income. If former subrecipients, applicants, or program participants generate program income at any time after subrecipient closeout it must be repaid to the State.

## 2.6 Programmatic Compliance Check

The Infrastructure Program undertakes periodic reviews of its program files to ensure compliance with HUD regulations.

## 2.7 Monitoring and Compliance Department (MCD)

GOSR's MCD is comprised of two parts: the Monitoring Department and the Compliance Department.

### 2.7.1 Monitoring Department

GOSR has established a monitoring plan administered by the Monitoring Department. This monitoring plan is typically implemented in six-month periods and generally includes two types of monitoring: programmatic monitoring and external monitoring.

- Programmatic monitoring includes assessments of key internal controls and compliance with program policies and procedures, contractual requirements, applicable State and Federal regulations, and GOSR's Action Plans and Amendments; and
- External monitoring is performed for GOSR subrecipients, developers, and other parties to GOSR agreements, and consists of monitoring compliance with contractual requirements, applicable State and Federal regulations, and program requirements.

#### 2.7.1.1 Programmatic Monitoring

The Infrastructure Program is included in the MCD's programmatic monitoring plan. This monitoring focuses on functions being performed by GOSR programs. It is intended to provide reasonable assurance that GOSR programs have efficient and effective internal controls, including controls to ensure that:

- Programs achieve their intended results;
- Resources are used in a manner consistent with the agency's mission;
- Programs and resources are protected from waste, fraud, abuse, and mismanagement;
- Laws, regulations, and applicable policies and procedures are followed; and

- Reliable and timely information is obtained, maintained, reported, and used for decision-making.

### **2.7.1.2 External Monitoring**

Subrecipients involved in the implementation of the Infrastructure Program are included in the MCD's risk-based external monitoring plan. Through external monitoring, MCD identifies risks and deficiencies and provides recommendations for corrective actions or TA to address risks.

### **2.7.2 Compliance Department**

As of February 2020, the MCD has absorbed the portfolio and functions of the Office of Diversity and Civil Rights (DCR). Accordingly, the Compliance Department works closely with subrecipients and contractors to advance GOSR's mission, while increasing access to its workforce and contracting opportunities. This is achieved through advocacy, outreach, TA, and training, regulatory review, and program implementation. Further, the Compliance team performs regular reviews of required diversity reporting, as well as a review of utilization plans, achieved utilization, and documentation of efforts to meet the established diversity goals. The Compliance team facilitates GOSR's compliance with several federal and state diversity and inclusion regulations including the Minority and Women-Owned Business Enterprises (M/WBE), Fair Housing & Equal Opportunity (FHEO), and HUD's Section 3 Program. The Compliance team also oversees important accessibility issue areas, including LEP, Americans with Disabilities (ADA), and Section 504 of the Rehabilitation Act.

The Compliance team serves as an internal resource for GOSR, providing support to Programs, subrecipients, and vendors, in achieving compliance with statutory requirements and diversity objectives. The Compliance Department's programmatic support services include:

- Working with Infrastructure projects to ensure they are aligned with GOSR's DCR requirements;
- Reviewing and providing guidance on Section 3 and M/WBE documents submitted by vendors as needed, such as utilization plans and efforts;
- Conducting TA and training with internal Program staff, subrecipients, and contractors;
- Planning and executing networking events that bring together GOSR subrecipients and contractors with M/WBE and Section 3 businesses looking for contracting opportunities;
- Participating in pre-bid, pre-construction, and project meetings to consistently be a resource and provide strategic advice where required;
- Providing policy and regulatory guidance on applicable diversity regulations, particularly M/WBE and Section 3 requirements;
- Strategically identifying M/WBE and Section 3 firms to facilitate the dual goals of providing greater opportunities to M/WBE and Section 3 firms, while also assisting Program in meeting their goals and requirements;



- Working with subrecipients and vendors to utilize the NYS Storm Recovery Opportunities Portal (NYSSROP) to post procurement and job opportunities to recruit and source M/WBE and Section 3 businesses and Section 3 residents;
- Working with subrecipients, contractors, and Program staff to ensure that all required diversity reporting is properly submitted;
- Analyzing subrecipient and contractor compliance with reporting requirements and utilization goals; and
- Providing hands-on TA to subrecipients and contractors where there is a gap between their project's required goals and current utilization.

For more information about the Infrastructure Program's M/WBE and Section 3 policies, see Exhibit 1-Program Administrative Requirements and Cross-Cutting Federal Regulations.

### **2.7.3 Technical Assistance to Subrecipients**

To assist subrecipients in complying with all CDBG-DR regulations and any GOSR policies, as well as to build the subrecipient's capacity, GOSR staff and Grant Managers provide subrecipients with necessary TA.

GOSR's TA is comprised of formal training (prepared materials, in-person presentations, and webinars) and informal training (verbal or written advice, provided as needed, through in-person meetings, emails, or telephone calls). TA occurs at every step of the implementation process, from the initial assessment period through project closeout. TA is also provided to assist subrecipients in preparing for GOSR's monitoring. The nature and rigor of TA is continuously tailored to meet the subrecipient's unique needs.

### **2.7.4 Audit Requirements**

In accordance with 2 CFR 200 Subpart F (replacing the Office of Management and Budget (OMB) A-133 Circular), all non-federal entities expending \$750,000 or more in Federal funds during their fiscal year must have an annual audit conducted, as detailed in 2 CFR 200. Subrecipients that fall within this category must submit a copy of their single or program-specific audit report to GOSR. Upon receipt of the single audit, program staff will alert the MCD. The MCD will review the audit report and determine whether any aspects of the audit impact GOSR funding (e.g., a finding related to GOSR funding or failure to properly identify GOSR funding), necessitating a management decision from GOSR. Any deficiencies noted in the management decision must be fully cleared by the subrecipient within 30 days after the subrecipient receives the management decision.

Subrecipients that expend less than \$750,000 in Federal funds must complete a Single Audit certification (i.e. A-133 Compliance Certification Form) for the most recently concluded fiscal year. Subrecipients may also submit a financial report; types of financial reports include an Independent Auditor's Report, NYS Comptroller Annual Financial Report (AUD), NYS Charity Bureau Annual Filing Report, or internally-generated balance sheet and income statement related to the expenditure of CDBG-DR funds.

In cases where there is a sub-subrecipient, the subrecipient determines if Single Audits from the sub-subrecipient must be submitted. If it is determined that these Single Audits are required for the sub-subrecipient, the subrecipient collects them from the sub-subrecipient and review them as needed.

## **2.8 Multi-Phase Requirements for Subrecipients**

Multi-phase requirements refer to policies that occur in more than one phase of the project implementation process. Subrecipients must comply with all administrative and financial requirements in the CFR Title 24 and all OMB's Circulars as applicable and as superseded by 2 CFR 200. As noted in this section, GOSR will provide TA to subrecipients to assist in maintaining compliance. The Infrastructure Program's Procedure Manual provides in-depth information on implementing the procedures associated with the policies outlined in this Manual. GOSR staff and consultants utilize the Policy and Procedure Manuals to provide TA to subrecipients to comply with financial management, procurement, Equal Opportunity, Section 3, environmental review, insurance and property management, construction requirements, record keeping, and reporting, single audit, reimbursements, **SRA** modifications, and monitoring requirements.

## **2.9 Investigations**

The Investigations Department at GOSR is responsible for the following duties:

- Managing a fraud hotline;
- Processing all incoming complaints relating to fraud, misconduct, and wrongdoing;
- Reviewing and analyzing such complaints;
- Obtaining relevant programmatic information to assess such complaints; and
- Determining appropriate further action, including but not limited to further internal investigation, referral to the appropriate law enforcement agency, and corrective action to address any risks or deficiencies in existing programmatic policies and procedures.

## **2.10 Applicability of Cross-Cutting Federal Regulations to the Programs**

GOSR and its subrecipients must adhere to all applicable State and Federal laws, rules, and regulations. This section provides a summary of the significant and applicable Federal regulations for all Infrastructure Program activities.

### **2.10.1 Davis-Bacon Labor Standards**

HUD issued specific guidance for Davis-Bacon Labor standards for Sandy Grantees, who use CDBG-DR funds to make match payments for FEMA PA Program activities. This letter is attached as Appendix 4. Further detail on Davis-Bacon and Related Acts (DBRA) and GOSR's PA Match Program activities are reflected in the Infrastructure Program's Procedure Manual.

The MCD ensures that GOSR's applicable programs and services comply with DBRA through the submission of certified payroll records and interviews of prime and sub-contractor laborers. The Local Government and Critical Infrastructure Program utilizes Elation Systems, to track,

review, and monitor weekly payroll submissions by contractors. GOSR procured Elation Systems, a cloud-based Davis-Bacon, labor, and contract compliance management system used by HUD, to streamline the Davis-Bacon compliance efforts agency-wide. For the PA Match Program, depending on the stage of completion of a specific project, payroll information is either maintained in Elation or program-specific network drives. In either case, GOSR ensures that Davis-Bacon compliance per regulation and disaster-specific guidance is met.

GOSR's Wage Compliance Unit (WCU), as part of the MCD, conducts regular review of certified payrolls related to Infrastructure projects to confirm that the appropriate wage schedules are being followed, and will conduct periodic construction site visits to verify that the wage decisions and other required posters are displayed on the site. GOSR will also conduct periodic employee interviews using form HUD-11 to verify that employees are being correctly classified on the certified payrolls and are being paid the correct wage rate for the classification. In addition to conducting employee interviews using form HUD-11, GOSR may also elect to conduct employee interviews via the US mail using form HUD-4730. GOSR will contact the general contractor to clarify and resolve discrepancies related to underpaid workers, apprentices, improper deductions, fringe benefits, and other inconsistent information between payrolls and employee interviews.

In cases where restitution is required, GOSR will send formal notice to the general contractor listing affected workers and the total dollar amount of required restitution. The general contractor will be required to provide evidence of restitution to each worker. If the general contractor is unwilling or unable to make restitution, GOSR may withhold funds equal to the restitution amount.

### **2.10.2 Force Account Labor**

Force Account Labor (FAL) occurs when a unit of government that is a subrecipient or PA Match applicant uses their workforce to complete the construction of an Infrastructure Program project. This is not the preferred method of construction for GOSR projects. However, it is allowed under certain circumstances. For infrastructure projects, the use of FAL requires advance review and approval by GOSR. This may be documented by approval of a project budget that includes FAL. Subrecipients that proceed without prior approval risk disallowance of all incurred costs. Subrecipients must justify the use of FAL by demonstrating that this labor is cost-effective and that qualified personnel are available to accomplish the work. The FAL approval process is used for all infrastructure projects except for the PA Match Program.

For the PA Match Program, units of government frequently utilize some staff to undertake repairs following a disaster. As part of its review process, GOSR monitors and documents whether projects included work that was performed using FAL and materials, contractual labor, or a combination of force account and contractual labor. GOSR does not require advance approval for the use of FAL for the PA Match Program, however, GOSR will deem the use of FAL or materials ineligible if appropriate supporting documentation is not obtained.

### **2.10.3 Minority- and/or Women-Owned Business Enterprises**

Women-Owned Business Enterprises and Minority-Owned Business Enterprises targets for the PA Match Program are determined depending on the stage of completion of each project and project bid dates.

### **2.10.4 Section 3**

For Local Government and Critical Infrastructure Programs, projects are required to meet Section 3 requirements discussed in Exhibit 1. For the PA Match Program, GOSR also requires and checks for Section 3 compliance, however, Section 3 goals and objectives are set depending on the date of completion of each project and project bid dates. GOSR staff ensures that Section 3 objectives are addressed through direct TA with individual applicants and file reviews of projects.

### **2.10.5 Uniform Relocation Act and Real Property Acquisition**

Infrastructure Program does not expect to be engaged in projects that would result in the applicability of the uniform relocation act and/or real property acquisition. However, the Infrastructure Program staff would comply with these requirements as CDBG-DR federal funds, administered by GOSR and disbursed to subrecipients and direct contractors and/or beneficiaries, are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) and/or Section 104(d) of the Housing and Community Development Act of 1974. The applicable federal regulations are located at 49 CFR 24 (URA), 24 CFR 42 (Section 104(d)), and in the Real Estate Acquisition and Relocation Policy and Guidance Handbook (HUD Handbook 1378).

The March 5, 2013, Federal Register Notice (FR-5696-N-01) waived the one-for-one replacement requirements at Section 104(d)(2)(A)(i)-(ii) and (d)(3) and 24 CFR 42.375. Subrecipients or contractors must provide the following benefits to households or businesses that they displace:

- Relocation advisory services;
- A minimum of 90 days notice to vacate;
- Reimbursement for moving expenses; and
- Payments for the added cost of renting or purchasing comparable replacement housing.

GOSR programs subject to the URA and Section 104(d) include the CDBG-DR programs. GOSR policies and procedures, Notices of Funding Availability (NOFAs), applicant certifications and/or written agreements for funds subject to the URA and Section 104(d) shall refer to Federal and State rules, as appropriate.

#### **2.10.5.1 Real Property**

If CDBG-DR funds are used to acquire real property, GOSR Legal ensures that the property continues to be used for its intended (and approved) purpose, proper records are maintained to keep track of it, steps are taken to protect and maintain it, and that if the property is sold, GOSR is reimbursed for the CDBG-DR share of the property's value. GOSR, as the grantee, along with

its subrecipients and contractors, must tag and log all property valued greater than \$1,000 and update inventory records annually.

#### **2.10.5.2 Acquisition of Real Property**

Upon notification of permission from GOSR, the subrecipient proceeds with efforts to acquire any real property, including easements and right-of-ways, required for the project. CDBG-DR federal funds, administered by GOSR and disbursed to subrecipients and direct contractors and/or beneficiaries, are subject to the URA and/or Section 104(d) of the Housing and Community Development Act of 1974. The applicable federal regulations are located at 49 CFR Part 24 (URA), 24 CFR Part 42 (Section 104(d)), and in the Real Estate Acquisition and Relocation Policy and Guidance Handbook (HUD Handbook 1378).

Section 104(d) requires relocation assistance for lower-income individuals displaced as a result of the demolition or conversion of a lower-income dwelling and requires one-for-one replacement of lower-income units demolished or converted to other uses. Subrecipients or contractors must provide the following benefits to households that they displace:

- Relocation advisory services;
- A minimum of 90 day's notice to vacate;
- Reimbursement for moving expenses; and
- Payments for the added cost of renting or purchasing comparable replacement housing.

A purchase option agreement on a proposed site or property before the completion of the environmental review is allowed if the option agreement is subject to a determination by the subrecipient on the desirability of the property for the project after the environmental review is completed and the cost of the option is a nominal portion of the purchase price. Prior to advertising for bids, the subrecipient must have obtained all lands, rights-of-way, and easements necessary for carrying out the project.

GOSR provides subrecipients with templates for Involuntary Preliminary Acquisition Notice, Invitation to Accompany an Appraiser, Written Offer to Purchase, Statement of Basis of Just Compensation, Notice of Intent Not to Acquire, Donation and Appraisal Waiver, and Administrative Settlement.

GOSR rules, NOFAs, applicant certifications, and/or written agreements for funds subject to the Uniform Act and Section 104(d) shall refer to federal and State rules, as appropriate.

MCD ensures that if CDBG-DR funds are used to acquire real property, and the property continues to be used for its intended (and approved) purpose, proper records are maintained to keep track of it, steps are taken to protect and maintain it, and that if the property is sold, GOSR is reimbursed for the CDBG-DR share of the property's value. GOSR, as the grantee, along with its subrecipients and contractors, must tag and log all property valued greater than \$1,000 and update inventory records annually.

Subrecipients with eminent domain authority may only utilize this authority to acquire property using GOSR funding after discussion with and approval from GOSR.

### 2.10.6 Financial Management

In accordance with 24 CFR Part 85.20-26 (as amended by 2 CFR 200) and 24 CFR Part 84.20-28 (as amended by 2 CFR 200), subrecipients must have a financial management system that:

- Provides effective control over the accountability of all funds, property, and other assets;
- Ensures “reasonableness, allowability, and allocability” of all costs and verifies that expenses have not violated any federal restrictions or prohibitions;
- Permits the accurate, complete, and timely disclosure of financial results in accordance with reporting requirements of GOSR and HUD; and
- Minimizes the time elapsed between the transfer of funds from the U.S. Treasury and disbursement by the subrecipient.

GOSR will provide subrecipients with TA on client financial management and will monitor subrecipients’ practices to ensure compliance.

Subrecipients that expend \$750,000 or more in federal funds within a fiscal year must complete and submit to GOSR a copy of their single or program-specific audit report. Subrecipients that do not meet the \$750,000 threshold and thus are not subject to the Single Audit requirements must complete a Single Audit certification (, A-133 Compliance Certification Form) for the most recently concluded fiscal year. (See Section 2.7.4 for more details.)

### 2.10.7 Insurance and Property Management

For all projects in the Infrastructure Program, all subrecipients, except for those in the PA Match Program, must procure and maintain insurance for the duration of the **SRA** to protect all contract assets from loss due to any cause, such as theft, fraud, and physical damage. Each subrecipient must maintain fidelity bond coverage for all employees in an amount equal to all cash advances from GOSR. At a minimum, subrecipients must comply with the bonding requirements at 24 CFR 85.36 or 84.48, as applicable and as amended by 2 CFR 200, and with the requirements of their **SRA**.

If CDBG-DR funds are used to acquire real property or personal property, the subrecipient is responsible for ensuring that:

- The property continues to be used for its intended (and approved) purpose;
- The subrecipient keeps track of, and takes care of, the property; and
- If the subrecipient sells or disposes of the property within five years after the expiration of the **SRA** or a longer period as GOSR deems appropriate, the subrecipient reimburses GOSR for the share of the property’s value according to the **SRA**.



For the PA Match Program, applicants must follow and comply with FEMA requirements. Each subrecipient must maintain fidelity bond coverage for all employees in an amount equal to cash advances from GOSR. At a minimum, subrecipients must comply with the bonding requirements at 24 CFR 85.36 or 84.48, as applicable, and with the requirements of their **SRA**.

#### **2.10.7.1 Insurance Waiver**

GOSR **SRAs** require that subrecipients incorporate GOSR's Supplementary Conditions for Contracts (Supplementary Conditions) in any contract entered into under the **SRA**. The Supplementary Conditions require that any contractor providing services to a GOSR subrecipient must obtain and maintain certain types and amounts of insurance coverage. The Supplementary Conditions also provide that GOSR may waive, decrease, alter or amend these insurance requirements in writing.

##### *Insurance Waivers- Professional Services Contracts (Contractor)*

It is typically the responsibility of GOSR's Chief Financial Officer to determine when a waiver or alteration of insurance requirements is appropriate. However, at their discretion, Infrastructure Program staff, in consultation with the Project Delivery Director, may waive additional insurance requirements of a professional services contract when a subrecipient's professional services contractor presents evidence that they carry at least \$2 million of general liability insurance and where the total budget of the relevant contract does not exceed \$1 million. If a contract does not meet these criteria, if the amount of the relevant contract exceeds \$1 million, or if the contractor carries less than \$2 million of general liability insurance in aggregate and at least \$1 million of general liability insurance per occurrence, or if the contract is other than a professional services contract, Infrastructure Program staff should consult GOSR's Chief Financial Officer before taking further action.

##### *Insurance Waivers- Not Engineering, Design or Construction Contracts (Contractor)*

Insurance requirements for subrecipient contracts that are under \$100,000 and not for engineering, design, or construction may be waived or lowered if the subrecipient has met and documented its own insurance requirements through an up-to-date and properly endorsed **Certificate of Liability Insurance**. The subrecipient must request this waiver and the Infrastructure Program staff must submit the Certificate of Insurance along with a very brief description of the request to waive insurance to the Regional Director. If a material change to the insurance is being required, the Regional Director may consult with the GOSR Procurement and Contract Administration (PCA) Department. After reviewing, the Regional Director will approve or deny the request. Infrastructure Program staff inform the subrecipient of the waiver approval and documentation of the waiver approval is uploaded to the GOSR Subrecipient Portal (GSP).

##### *Insurance Waivers- Automobile Insurance (Subrecipient and Contractor)*

As long as a subrecipient or their contractors formally certify (by letter from an authorizing official) that they do not own a car and will not use a motor vehicle in carrying out the work for their contract, the requirement for automobile insurance can be waived.

##### *Insurance Waivers- Workers' Compensation (Contractor)*

If a firm that a subrecipient contracts with does not have workers' compensation insurance, NYS law requires a Certificate of Attestation of Exemption from Workers' Compensation (Form CE-200). Firms must complete an application, available through the NYS Workers' Compensation Board website, and furnish GOSR with a copy of the certificate. Certificates are only valid for the specific license, permit or contract and the period for which it is issued. Certificates for building permits are job-specific and a separate certificate will be required for each building permit.

### **2.10.8 Recordkeeping, Retention and File Management**

Every subrecipient and contractor is required to establish and maintain at least three major categories of records: Administrative, Financial, and Project/Case Files.

GOSR maintains records as required to facilitate a review or audit by HUD.

**Administrative Records:** These are files and records that apply to the overall administration of the subrecipient's CDBG-DR activities. They include the following:

- a. Personnel files;
- b. Property management files;
- c. General program files: Files relating to the sub-grantee, subrecipient's, or contractor's application to the grantee, the **SRA**, program policies and guidelines, correspondence with grantee and reports, etc.; and
- d. Legal files: Articles of incorporation, bylaws of the organization, tax status, board minutes, contracts, and other agreements.

**Financial Records:** These include the chart of accounts, a Manual on accounting procedures, accounting journals, and ledgers, source documentation (purchase orders, invoices, canceled checks, etc.), procurement files, bank account records, financial reports, audit files, etc.

**Project/Case Files:** These files document the activities undertaken for specific individual beneficiaries, property owners, and/or properties.

#### **2.10.8.1 Reporting**

Subrecipients and contractors submit the required documents and reports to the State at the times indicated in the subrecipient and grant and/or contract agreement, and in the format prescribed by the Infrastructure Program staff. Deviations from this requirement must be approved by program staff.

For the majority of the PA Match Program, the Infrastructure Program reviews reports for projects that are ongoing according to HUD reporting requirements. At the discretion of the Director of the PA Match Program, large projects under the PA Match program may instead follow the reporting requirements for standalone projects as described above.

#### **2.10.8.2 Record Retention**

Required Local Government and Critical Infrastructure project documents are filed in the GOSR Subrecipient Portal (GSP). This program updated its document retention procedures in March



2020 to provide clearer guidance on which documents are required and where required documents shall be filed. These procedures build upon the CDBG Model Record Filing System document. These updated record retention procedures are outlined in the **Records Retention and Portal Management Standard Operating Procedure (SOP)** and **Community Reconstruction & Infrastructure (CR&I) Required Document Matrix (Document Matrix)**.

Project files are audited prior to closeout; the Infrastructure program updated its records retention procedures in March 2020 as noted in the program's internal recordkeeping methodology to routinely audit the presence of all supporting documentation for each project via checklists. Audit checklists ensure that project documents are appropriately filed; documents are cross-filed for multiple projects when required, and project assessments are completed based on the project's specific scope of work. Corrective actions such as memos to file may be utilized when missing documents are identified.

The Local Government and Critical Infrastructure program also updated its procedures in March 2020 to include an internal control to ensure that the titled members of Infrastructure program staff specified in program policies and procedures have signed documents for which their signatures are required.

Training on recordkeeping requirements, project oversight, and supervisory review of documents are held for Project Managers and supervisors as needed.

#### **2.10.9 Audit Trail**

All records defined by the organization as important are captured in GOSR's recordkeeping systems (e.g., SharePoint, IntelliGrants, Tribuo, Elation, IMARC, network drives, the GSP, etc.) so they can be appropriately managed. For the Infrastructure program, the program uses two different systems of record that allow for audits. The GSP serves as the management information and model file system for all projects in the Local Government and Critical Infrastructure Program of the Infrastructure Program. GSP contains both grantee and project level files, providing immediate tracking and imaging of Program documentation, including but not limited to, project selection, development and implementation activities, **SRA** and other agreements, financial management, and citizen participation data. Ensuring data security and oversight to creating a clear audit trail of the Programs.

For the PA Match Program, GOSR uses a separate drive on its network as the system of record for program files. The network drive holds all PA Match Program documentation including, but not limited to CDBG-DR documentation for each PW, all FEMA required supporting documentation needed to make a CDBG-DR payment, along with GOSR approvals for payment, and cost documentation materials.

Elation Systems, Inc. is a provider of diversity and labor compliance reporting and management services. GOSR has adopted this cloud-based compliance management system to help all its Contractors and Subrecipients receiving Federal funds adhere to Labor Compliance (Davis-Bacon), M/WBE, and Section 3 Federal reporting requirements. The Elation Systems application

will serve as the system of record for all M/WBE, Section 3, and Davis-Bacon report submissions from GOSR subrecipients and direct contractors.

All applicant data is secured in GOSR's management information system for a specified period of time, in accordance with the current Record Retention and Disposition Schedule.

Recordkeeping, including scanning, uploading to GOSR's management information system, and filing of pertinent Program documentation retention policies provides a physical and/or electronic record of activities so that documentation is accessible for audit purposes.

To protect non-public personal information, data security measures are in place. This includes hardware and software data security protocols and contractors having signed non-disclosure agreements. GOSR also requires that hard copy files containing non-public personal information are kept in locked file cabinets to ensure their physical security.

#### **2.10.10 Design Standards and Construction Specifications for Residential Structures**

Per the Green Building requirements of the March 5, 2013 Federal Register Notice (FR- 5696-N-01), all new construction of residential structures and replacement of substantially damaged (SD) residential structures should repair their properties in accordance with all State and locally adopted and approved building codes, standards and ordinances. Due to the highly regulated nature of construction activities in NYS, compliance with the aforementioned requirements is determined through inspection and approval by the local code official that is vested with the authority to determine compliance with local and State requirements.

All reconstructed homes and SD or substantially improved (SI) homes must incorporate Energy Conservation Construction Code of New York State (ECCCNYS 2010) into construction and receive a **Certificate of Occupancy (COO)**. The Program will require a copy of the **COO** or equivalent document prior to closeout to confirm compliance.

All work to repair or rehabilitate a residential structure must comply with the March 5, 2013, Federal Register Notice (FR- 5696-N-01), which requires non-SD residential buildings to follow the guidelines specified in the HUD CPD **Green Building Retrofit Checklist** ("Green Building Checklist"). The guidelines provide a description of the **Green Building Retrofit Checklist** that can be used by communities undertaking residential rehabilitation activities using CDBG-DR funds allocated through the PL 113-2 appropriation for Superstorm Sandy recovery efforts. The PL 113-2 allocation also provides for addressing remaining unmet needs in declared counties impacted by Hurricane Irene and Tropical Storm Lee. These requirements also apply to instances where Hurricane Irene and Tropical Storm Lee recovery efforts are funded in whole or in part by the PL 113-2 allocation.

The **Checklist** requirements which promote energy efficiency and green building practices for residential retrofit projects were communicated to Subrecipients in May 2020.

### 2.10.11 Flood Insurance and Substantial Improvement

The Flood Insurance and Substantial Improvement policy outline the basic Flood Insurance and Substantial Improvement requirements to aid in conversations about these requirements with subrecipients and program participants.

#### 2.10.11.1 Flood Insurance

Under the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), GOSR requires subrecipients that receives CDBG-DR funding for acquisition and/or construction purposes for a property that is insurable under the National Flood Insurance Program (NFIP) and the insurable property is located in a Special Flood Hazard Area (SFHA) (also known as the 100-year floodplain), the subrecipient will be required to obtain and maintain flood insurance in perpetuity for all such property for which Federal funding is provided. To the extent possible, flood insurance coverage should be in place prior to the start of CDBG-DR-funded construction. If coverage cannot be obtained because the unimproved asset is not eligible for flood insurance, this requirement is effective—to the extent, the improved asset is eligible for insurance—once the property is acquired or improvements constructed with CDBG-DR funds. The insurance coverage must be equal to the total project cost or the maximum available NFIP coverage, whichever is less.

Additionally, for the Local Government and Critical Infrastructure Program, any project that involves the construction or rehabilitation of an insurable structure in the floodplain and is receiving CDBG-DR funds, the subrecipient and/or program participant certifies via the **Previous Flood Insurance Requirements Checklist** that if previous federal assistance funds were provided for the property, requirements under the NFIP and other relevant statutes or regulations have been adhered to by the entity.

#### 2.10.11.2 Substantial Improvement

Per FEMA regulations (44 CFR 60.3), all new construction and SI (or SD) structures within mapped flood hazard areas must meet specific floodplain development standards. State or locally adopted requirements that are more restrictive take precedence (often referred to as “exceeding the NFIP minimums” or “higher standards”).

### 2.11 Infrastructure Requirements

Per the November 18, 2013 Federal Register Notice (FR-5696-N-06), an infrastructure project is defined as an activity, or a group of related activities, designed by the grantee to accomplish, in whole or in part, a specific objective related to critical infrastructure sectors such as energy, communications, water, and wastewater systems, and transportation, as well as other support measures such as flood control. This definition is rooted in the implementing regulations of the National Environmental Policy Act (NEPA) at 40 CFR 1508 and 24 CFR 58. Further, consistent with HUD’s NEPA implementing requirements at 24 CFR 58.32(a), a grantee must group together and evaluate as a single infrastructure project all individual activities which are related to one another, either on a geographical or functional basis or are logical parts of a composite of contemplated infrastructure-related actions. Consistent with 40 CFR 1508, infrastructure projects are “related” if they automatically trigger other projects or actions, cannot or will not proceed unless other projects or actions are taken previously or simultaneously, or are interdependent parts of a larger action and depend on the larger action for their justification.

### 2.11.1 Comprehensive Risk Analysis

FR-5696-N-06 requires that each grantee must describe the science-based risk analysis it has or will employ to select, prioritize, implement, and maintain infrastructure projects or activities. GOSR has outlined this Risk Analysis in the State's Action Plan Amendments and will adhere to the analysis for all infrastructure projects.

### 2.11.2 Green Infrastructure

GOSR undergoes a review of each CDBG-DR funded infrastructure project to determine applicable requirements related to green infrastructure project elements, according to Section VI.2 of the November 18, 2013 Federal Register Notice (FR-5696-N-06) and identify actions to meet those requirements. The State continues to support projects that restore, enhance, and make more resilient the region's natural resource assets through the use of green infrastructure.

GOSR is committed to utilizing green infrastructure when and where possible and feasible for its infrastructure projects. The Natural Resources sub-program of the Infrastructure and Local Government program, as described in Section 5.4, includes projects that are natural resource-based and/or incorporate green infrastructure methods in project design.

For the Local Government and Critical Infrastructure Program, the project **Application** and **Environmental Review Record (ERR)** includes descriptions of green infrastructure elements where applicable. As of September 2020, the **Project Closeout/Cancellation/Subrecipient Switch Checklist** includes a question on green infrastructure utilization.

### 2.11.3 Resilience Performance Standards

HUD requires, through the November 18, 2013 Federal Register Notice (FR-5696-N-06), that GOSR identifies and implements resilience performance standards to infrastructure projects funded by the P.L. 113-2 grant. The Local Government and Critical Infrastructure Program does this through the completion of a **Resilience Performance Standards (RPS) for Infrastructure Projects Review** memo (**RPS Memo**).

Starting in August 2018, the memo is completed by the Infrastructure Program staff for all infrastructure projects. The memo identifies one or more of the five 'Resilience Qualities' (Robustness, Redundancy, Resourcefulness, Response, and Recovery) the project is designed to address and describe how the project addresses or enhances the resilience quality.

These qualities were refined as part of the Resiliency Institute for Storms and Emergencies (RISE) project that was funded by the state to support the development and refinement of a set of performance standards to measure resiliency within a project. These include:

- Robustness (ability to absorb and withstand disturbances and crises);
- Redundancy (excess capacity and back-up systems, which enable maintenance of the core functionality in an event of disturbance);
- Resourcefulness (ability to adapt to crises and respond flexibly);

- Response (ability to mobilize quickly in the face of crises); and
- Recovery (ability to regain a degree of normality after a crisis).

Starting in April 2020, the **RPS for Infrastructure Projects Review** memo includes a section to confirm that the project has reached 100% design and that the 100% design has been reviewed by the PM.

## 2.12 Covered Project Requirements

In the November 18, 2013 Federal Register Notice (FR-5696-N-06), HUD included requirements for the funding of Infrastructure Programs: “HUD approval is required for each major infrastructure project with such projects defined as having a total cost of \$50 million or more (including at least \$10 million of CDBG-DR funds), or benefits multiple counties. Additionally, two or more *related infrastructure projects* that have a combined total cost of \$50 million or more (including at least \$10 million of CDBG-DR funds) must be designated as major infrastructure projects.”

This includes placing additional reporting and consultation requirements on grantees for projects that exceeded award thresholds and were tied to multiple funding sources. GOSR will be administering projects which meet this threshold through the PA Match Program as well as in the Local Government and Critical Infrastructure Program. GOSR is actively engaged with the Sandy Regional Infrastructure Resilience Coordination Group (SRIRC) and HUD to ensure compliance with these processes. GOSR will submit all Covered Projects to HUD as required through a substantial Action Plan Amendment and address the following requirements as outlined in the November 18, 2013 Federal Register Notice (FR-5696-N-06); the October 14, 2014 Federal Register Notice (FR-5696-N-11), and any other Federal Register notices issued for P.L. 113-2. For each identified Covered Project GOSR will provide the following information as required in the Notice:

1. **Identification/Description.** A description of the Covered Project, including: Total estimated project cost, how it will meet a national objective, and the project’s connection to the disaster;
2. **Use of Impact and Unmet Needs Assessment, the Comprehensive Risk Analysis and the Rebuild by Design (RBD) Collaborative Risk Analysis.** A description of how the Covered Project is supported by GOSR’s updated impact and unmet needs assessment, as well as the GOSR’s comprehensive risk analysis. The description must describe how Covered Projects address the risks, gaps, and vulnerabilities in the region as identified by the comprehensive risk analysis. Additionally, the description must also describe how the collaborative risk analysis developed through the RBD initiative has been or will be used for the evaluation of Covered Projects;
3. **Transparent and Inclusive Decision Processes.** A description of the transparent and inclusive processes that have been or will be used in the selection of a Covered Project(s) including accessible public hearings and other processes to advance the engagement of vulnerable populations. GOSR should demonstrate the sharing of decision criteria, the method of evaluating a project(s), and how all project stakeholders and interested parties were or are to be included to ensure transparency

including, as appropriate, stakeholders and parties with an interest in environmental justice or accessibility;

4. **Long-Term Efficacy and Fiscal Sustainability.** A description of how GOSR will monitor and evaluate the efficacy and sustainability of Covered Projects, including how it will reflect changing environmental conditions (such as sea level rise or development patterns) with risk management tools, and/or alter funding sources if necessary; and
5. **Environmentally Sustainable and Innovative Investments.** A description of how the Covered Project(s) will align with the commitment expressed in the President's Climate Action Plan to "identify and evaluate additional approaches to improve our natural defenses against extreme weather, protect biodiversity, and conserve natural resources in the face of a changing climate..."

### 2.12.1 Sandy Regional Infrastructure Resilience Coordination Group (SRIRC)

Per the November 18, 2013 Federal Register Notice (FR-5696-N-06), GOSR consults with its designated Regional Coordination Working Group, the SRIRC, about all Covered Projects prior to inclusion of a Covered Project in its Action Plan. HUD will consider the group's views prior to approval or disapproval of the project(s).<sup>4</sup>

The objective of the SRIRC is to support regional resilience across federal infrastructure investments by gathering, discussing, and considering technical information about individual planned and proposed projects. This will allow the identification and seizing of opportunities to enhance resilience, consistent with grant requirements through the Disaster Relief Appropriations Act of 2013 ("Sandy Supplemental"), and the Infrastructure Resilience Guidelines (pages 49-54) of the Rebuilding Strategy<sup>5</sup> by:

1. Gathering, discussing, and considering technical information related to planned and proposed projects in order to identify opportunities to enhance resilience;
2. Advising grantees and project sponsors on project scopes so that the projects may have enhanced resilience, individually or together;
3. Identifying potential implementation challenges such as funding and/or Federal Review and Permitting (FRP) issues that can be addressed through collaboration or referral to appropriate federal committees or groups dedicated to the issues; and
4. Federal grantees are also able to request that projects are considered/discussed by the Sandy Regional Team for FRP at any time to help coordinate and expedite the collective review and permitting processes necessary. The FRP process is required for all RBD projects. Additionally, the FRP team may be utilized for any covered infrastructure project.

Management of the SRIRC and administration sits at the FEMA Sandy Recovery Office (SRO) with support from each of the Regional Administrators for Region II of FEMA and HUD. Additional leadership and support is provided by federal officials in the affected region

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4 <https://www.govinfo.gov/content/pkg/FR-2013-11-18/pdf/2013-27506.pdf>

5 <http://portal.hud.gov/hudportal/documents/huddoc?id=hsrebuildingstrategy.pdf>

September 9, 2021



from U.S. Department of Homeland Security (DHS) (through FEMA), U.S. Department of Commerce (DOC) (through the National Oceanic and Atmospheric Administration), Department of Defense (DoD) (through USACE), U.S. Department of Energy (DOE), U.S. Department of the Interior (DOI) (through U.S. Fish and Wildlife Service, National Park Service, and U.S. Geological Survey, DOL, Department of Transportation (DOT), EPA, General Services Administration (GSA), U.S. Department of Health and Human Services (HHS), HUD, and the U.S. Department of Veterans Affairs (VA), and the infrastructure project sponsors as federal grantees from the States of Connecticut, New Jersey, New York, the City of New York, the Port Authority of New York and New Jersey, and tribal nations in the affected region (“Federal Grantees”). The SRIRC comprises decision-makers as the Principal Members (“Members”), and their primary points of contact, who are responsible for the integration of SRIRC principles and information with their organization.

### **2.13 Prohibition of Assistance to Private Utilities**

As required by the November 18, 2013 Federal Register Notice (FR-5696-N-06), the Infrastructure Program does not provide assistance to businesses, including privately owned utilities that do not meet the definition of a small business, as defined by the SBA.

### **2.14 Iran Divestment Act**

In compliance with the NYS Iran Divestment Act of 2012, all bids submitted to the subrecipient for services related to the expenditure of CDBG-DR funds must include a certification signed by the bidder that the bidder is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law.

In addition, every contract entered into by the subrecipient pursuant to the expenditure of CDBG-DR funds must adhere to the requirements in GOSR’s Supplementary Conditions for Contracts regarding the procurement of contractors and sub-contractors on the “Prohibited Entities List” (<http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>).

## 3.0 Non-Federal Share Local Match Program Policies

### 3.1 Introduction

**Note: The policies in this section apply to all Match programs (except when stated otherwise). In addition, FEMA HMGP follows the additional policies in the sections set out in Table 2.**

The Non-Federal Share Local Match Program works with public entities and other eligible applicants to ensure that disaster recovery resources provided by federal agencies to entities in New York can be leveraged with CDBG-DR funding to maximize, facilitate and ensure recovery from presidentially declared disasters outlined in this Manual. All Non-Federal Share Match payments will be reimbursed based on payments for the cost incurred. The Non-Federal Share Match Program is broken out into two sub-programs which are outlined within this document and provided in *Table 2*. The largest of the match programs, in terms of applicants and financial commitment, is the FEMA PA Match program. FEMA HMGP Match Program follows additional policies and procedures. For the HMGP Match program, GOSR, the State of New York, FEMA, and HUD developed a unique financing plan to meet the match requirement for this program.

Previous Infrastructure Program manuals included the EPA–Storm Mitigation Loan Program (SMLP) as a third Non-Federal Share Local Match Program. The EPA-SMLP, also funded under P.L.113-2, provided funds to the EPA which in turn created recovery and resiliency programs to address wastewater and drinking water systems that were impacted by Superstorm Sandy. GOSR is no longer funding the EPA-SMLP as of May 24, 2019; NYS will provide the non-federal share match for the wastewater projects which were previously part of the GOSR portfolio. More information on the EPA-SMLP can be found in prior versions of the Infrastructure Policy and Procedure Manuals.

Table 2: Non-Federal Share Match Subprograms and Their Corresponding Policies

Non-Federal Share Match Programs	Impacted Storms	Policies
FEMA PA; TSA	Superstorm Sandy, Hurricane Irene, Tropical Storm Lee, Winter Storm Nemo, Upstate Severe Storms, and Flooding	Section 2.0 and Section 3.0
FEMA HMGP	Superstorm Sandy, Hurricane Irene, Tropical Storm Lee, Winter Storm Nemo, Upstate Severe Storms and Flooding, Severe Winter Storms and Snowstorms (1957), Severe Storms, Flooding, Tornadoes, and Straight Winds (1993)	Section 2.0 and Section 4.0

- **PA Non-Federal Share Match:** All PA Match Program and TSA Program projects will follow the policies outlined in Section 3.0. GOSR is providing the local match for FEMA PA associated with the five presidentially declared events that occurred in 2011, 2012, and 2013. GOSR is providing the FEMA TSA local match only for Superstorm Sandy. GOSR provides a direct reimbursement to the State of New York,

through coordination with the Division of Budget and the Division of Homeland Security and Emergency Services (DHSES) for match payments which the State has made to applicants in these FEMA programs; and

- **HMGP Non-Federal Share Match:** To satisfy the FEMA match requirement for HMGP, GOSR along with DHSES and FEMA approved an innovative financing strategy that is known as the ‘Global Match’ strategy which is outlined in Section 4.0 of this Manual. The Strategy allows the State to use homes bought out for a return to greenspaces through the GOSR Housing Program as the match for the HMGP program if the GOSR buyouts meet FEMA regulations. FEMA also has allowed the State to use eligible GOSR Infrastructure projects that are CDBG-DR funded projects and which meet FEMA HMGP requirements to be used as a match, allowing the State to maximize both FEMA HMGP and HUD CDBG-DR funds<sup>6</sup>. GOSR uses this strategy to address the match obligation for seven events that occurred in 2011, 2012, and 2013.

## 3.2 Funding Sources

Every project in the Non-Federal Share Match Program leverages CDBG-DR funding with other federal disaster recovery funding sources, which act as the primary funding source. This section briefly describes those other federal funding sources.

### 3.2.1 Federal Emergency Management Agency

When a disaster occurs it is the responsibility, first of the local community, and then of the State, to respond. Often their combined efforts are not sufficient to address the impact of the disaster. These situations call for federal assistance to supplement State, tribal, and local efforts. The Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 (Stafford Act), as amended, authorizes the President to provide such assistance. Assistance is coordinated through FEMA, which is the primary disaster response agency in the Federal government. It is an agency within DHS.

FEMA provides grants to communities that allow them to address immediate, post-storm response needs and long-term rebuilding needs through the PA program. FEMA also provides funds to assist individuals to address a number of needs including housing needs resulting from the storm in the immediate aftermath of an event through the IA program . IA includes the TSA Program, whereby the Federal government through FEMA pays for impacted citizens to stay in hotels until communities and homes are safe to return to. FEMA also provides funds to the State through the HMGP program so that following a disaster, communities, and areas can become more resilient to future events. Through the PA and HMGP programs, FEMA provides grants to the State and its subapplicants to address the long-term rebuilding, recovery, and resilience needs of communities.

Following a disaster, and upon official declaration by the President of the United States, FEMA designates area(s) as eligible for assistance. Following the federally declared disasters in 2011,

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<sup>6</sup> Traditional sources of Non-Federal Match Share, such as individual entities paying their own 25% match, remains eligible to be counted towards the total match obligation as well.

2012 and 2013, FEMA provided PA, IA, and HMGP funds to NYS. GOSR, through its Infrastructure Program, is assisting NYS and eligible entities with the:

1. PA Program;
2. TSA Program; and
3. HMGP Program.

Each program is guided by the Stafford Act, USC 5121, The Code of Federal Regulations Title 44 Parts 13.36, 13.37, and 13.40, and the FEMA Disaster Assistance Guidance 9500 Series.

### 3.2.2 Other Federal Agencies

While the Stafford Act and FEMA are the primary means for how communities address disaster recovery, for certain types of facilities, other federal agencies have the primary authority to provide disaster assistance. When an applicant requests PA for a facility whose repair FEMA considers to be within the authority of another federal agency, FEMA will ask the specific federal agency responsible to review the request and advise FEMA whether the work would be eligible under that agency's authority. If the work falls outside the statutory authority of that agency, FEMA may consider providing assistance for the work under the Stafford Act. In addition to HUD, Federal agencies that often have the authority to provide disaster assistance are detailed below.

### 3.3 Determining the Non-Federal Share Amount

The Non-Federal share match payment amount varies by federal disaster relief program and disaster. GOSR only provides reimbursement for the State cost-share or local match for the portion of a project that meets a HUD eligible activity under CDBG-DR requirements, as described in 3.4.1 below. The table below shows the current match percentage by disaster and federal program. As such, the match rates below represent the maximum federal share that GOSR may provide. On a per-project basis, GOSR may match less than the full project amount because items within the scope of work do not meet HUD CDBG-DR guidelines or because HUD required documentation is not provided. Additionally, to prevent DOB, matching funds from other sources (i.e. local funds or grants) are considered before GOSR funding decisions are confirmed.

Table 3: Federal Programs and Share Rate Eligible Under The State's Match Program

<i>Federal Program</i>	<i>Federal Agency</i>	<i>Federal Cost Share</i>	<i>State Cost Share</i>	<i>Disasters</i>
<i>Hazard Mitigation Grant Program (HMGP)</i>	FEMA	75%	25%	Sandy, Irene, Lee, Nemo, Mohawk Floods, Upstate Severe Storms and Flooding, Tornadoes and Straight Winds, Severe Winter Storms and Snowstorms

<i>Transitional Shelter Assistance (TSA)</i>	FEMA	90%	10%	Sandy
<i>Public Assistance (PA)</i>	FEMA	75%	25%	Irene, Lee, Nemo, Mohawk Floods
<i>Public Assistance (PA)</i>	FEMA	90%	10%	Sandy

### 3.4 Eligibility

#### 3.4.1 Eligible Activities (For PA Match only)

For the Non-Federal Share Match Program, HUD allows grantees to use CDBG-DR funds to address the Non-Federal Share as long as the funded project can meet the Non-Federal Share requirement of the lead agency and at least one additional HUD eligible activity. GOSR, working with HUD Community Planning and Development staff, has currently defined three specific eligible activities that correspond to payments being made in the PA Match Program.

For the Non-Federal Share Program, projects must meet HUD's Non-Federal share eligible activity requirement (Section 105(a)(9)) in addition to one of the following eligible activities requirements:

1. Public Facilities (Section 105(a)(2));
2. Debris Removal, Housing Rehabilitation (Section 105(a)(4));
3. Public Services (Section 105(a)(8)); and
4. Planning (Section 105(a)(12)).

#### 3.4.2 Eligible Applicants

##### 3.4.2.1 FEMA-Funded Programs: Public Assistance, Hazard Mitigation Grant Program, and Individual Assistance

Examples of eligible entities that may receive match PA and/or HMGP funding include the following:

- NYS Agencies and Public Authorities;
- County Governments (including departments and divisions);
- Local and Municipal Governments (including departments and divisions);
- Free-standing local and municipal government facilities (libraries, parks, Fire and volunteer fire departments, first responder facilities, wastewater treatment facilities, etc.);
- Public Schools, including Districts and Charter schools;
- Public Universities and Colleges;
- Public Hospital and Health Systems; and
- Nonprofits determined by FEMA to be eligible to receive federal funding.

IA payments are only made for TSA. The State of New York is the only eligible applicant.

### ***3.4.2.2 Applicant Eligibility for PA Match Payments: Hurricane Irene and Tropical Storm Lee***

PA Match Program payments prior to October 31, 2013 were made using the Hurricane Irene and Tropical Storm Lee CDBG-DR allocation (P.L. 112-55). Applicant eligibility was determined by HCR prior to GOSR's creation based on FEMA and CDBG-DR eligibility requirements, and funding was provided solely for FEMA PA (PWs) related to Hurricane Irene and Tropical Storm Lee. The current Action Plan for Hurricane Irene and Tropical Storm Lee, as amended, notes that counties eligible to receive matching funds from the P.L. 112-55 allocation includes all 38 Federally-declared counties covered under P.L. 112-55. The State continues to ensure that activities in the five counties prioritized in the initial Action Plan – Broome, Greene, Orange, Schoharie, and Tioga – retain priority status.

### ***3.4.2.3 Applicant Eligibility for PA Match Payments: Superstorm Sandy, Winter Storm Nemo, Upstate Severe Storms, and Flooding***

After February 2014, GOSR began making match payments for all FEMA PA activities using the Superstorm Sandy allocation (P.L. 113-2). Eligible storms included Superstorm Sandy, Winter Storm Nemo, and Upstate Severe Storms and Flooding (a.k.a. "Mohawk"). As available funds from the CDBG-DR allocation for Hurricane Irene and Tropical Storm Lee were insufficient to provide the required match to all FEMA PA activities generated by these disasters, eligibility for funds from the Sandy allocation was also extended to include remaining unmatched activities relating to Irene and Lee.

Applicant eligibility for the Sandy allocation was determined based on FEMA and CDBG-DR eligibility requirements in addition to a GOSR-defined "opt-in" process.

When using funds from the Superstorm Sandy allocation, GOSR coordinated with DHSES and the Division of the Budget to notify eligible applicants of the opportunity to participate in the PA Match Program. Only applicants who applied for and were approved by FEMA to participate in the PA program are eligible for GOSR's PA Match Program. The "opt-in" letter, sent by physical and/or electronic mail, informed applicants that HUD CDBG-DR funds are being used as the local match for these events and that in addition to providing GOSR with access to necessary information depending on the type of work, stage of completion for a project, or when work was completed, compliance with additional HUD regulations will be required. The letter included information regarding some of the specific CDBG-DR requirements that applicants must follow to be considered eligible for receiving funding under the PA Match Program. Through this direct correspondence, all applicants were made aware that HUD funds may be used to cover their Local Match obligation and were given the option to "opt-in" to the program accordingly. Applicants who responded to the opt-in correspondence via letter, email, or phone were added to GOSR's "Opt-In" List. As explained in the letter, opting in included agreeing to comply with CDBG-DR and GOSR program requirements and provide GOSR with the necessary documentation. Opted-in applicants were subsequently required to attend a TA workshop provided by GOSR to learn about program requirements such as Section 3, M/WBE, and Davis-Bacon. GOSR provided both in-person and virtual TA workshops, after which applicants had the opportunity to formally "opt-out" of the PA Match Program.



### **3.4.3 National Objective Documentation and Records**

To ensure the eligibility of all PA Match Program projects, Infrastructure program records must demonstrate that funded activities meet one of the national objectives required by HUD. The types of records to be maintained for each CDBG-DR funded activity depend on the national objective category for which they qualify (See Section 2.1.2).

To demonstrate the national objective for each activity, GOSR draws upon the best available HUD-approved data. In determining the service area of an eligible activity, GOSR assesses the nature, location, and accessibility of each activity, as well as the type of applicant and the information contained within the PW (e.g. the FEMA PA Category). The scale of the PA Match program necessitates adopting a broad-based approach using repeatable methodologies to determine the national objective. Wherever possible, GOSR leveraged existing service areas, mapped by its NYS agency partners, and best practices developed by other HUD grantees to establish methodologies to define service areas based on the beneficiaries of mitigation activities and/or types of facilities (e.g. debris removal, work on roads and bridges, schools, wastewater treatment facilities, etc.) and geographic features (e.g. locations of highway, rivers, etc.) and local population characteristics (e.g. population size and density). This approach enables GOSR to process projects and address the needs of communities in a timely and HUD-compliant manner.

To determine if a project meets the LMI area national objective, GOSR defines a service area that is appropriate to the scope of the project and uses census data to assess if at least 51% of beneficiaries in that service area are LMI persons (excluding exception grantee areas with LMI percentages specifically set forth by HUD). Where applicable, for LMI Area Benefit activities, State and Federal data is used to determine that the areas are primarily residential. Appendix 5 details the methodologies GOSR has developed to determine the service area of PA Match projects.

Service area documentation, including maps and memoranda, is saved in the respective PW folders located on the program's system of record (as set out in Section 2.10.8).

### **3.4.4 Duplication of Benefits**

For the PA Match Program, prior to PWs being reviewed by GOSR for HUD eligibility, FEMA also conducts DOB checks to ensure that FEMA's Federal funds are used only after other Federal disaster recovery and private funds are applied. As part of the PA Match Program review, including through TA, GOSR will confirm that costs shown in each project's worksheets are accurate, which includes ensuring that insurance proceeds are checked and reduced from the award amount. During PW development, FEMA may de-obligate PWs as additional DOB, including insurance proceeds, are realized, and Program reviews EMMIE data feeds for such changes on a monthly basis. If FEMA or NYS, through DHSES, find that additional funds have been realized for a project, which would result in a DOB, GOSR will work to reallocate match to other projects. Further, applicant documentation is reviewed, both by program staff and by MCD as part of its monitoring process for sampled applicants, to ensure that a DOB has not occurred after work has begun. NYS, through DHSES, conducts checks to ensure that if FEMA PA grantees

receive additional assistance from insurance proceeds, that PW rewards are de-obligated or reduced accordingly.

### **3.5 Project Review Order**

Due to the large volume of PA PWs to be reviewed for match eligibility, GOSR prioritizes the analysis of federal databases to determine the Non-Federal Share match based on the elements shown below. For GOSR's HMGP Match Program, projects will be reviewed in a separate process which is outlined in Section 4.0. For all funding sources in the Non-Federal Share Match Program, file reviews will be conducted in the following order:

1. Payment Date of Federal and Non-Federal Share;
2. Date of the disaster (storm date);
3. Project Location (county); and
4. FEMA Category (for PA Match Program payments only).

While GOSR will initiate reviews in the order above, program staff may need to alter reviews based on the availability of either payment data provided by DHSES and/or supporting documentation that is available from applicants. GOSR makes funding recommendations based on data obtained from multiple sources including project-specific information contained in FEMA's EMMIE, a database that contains PA-related data obtained by FEMA, financial payment data that is maintained by DHSES, State vouchers showing payment of the Non-Federal share, and others. Financial data includes payments the State makes for the non-federal share amount, which GOSR reimburses and Federal share payments that FEMA provides to applicants on each project. Financial payment data is maintained by GOSR and is updated to reflect the most recent current payment amounts. GOSR cannot make funding recommendations until a PW has both Federal Share and Non-Federal Share payments. GOSR is periodically provided updated payment files by disaster that show Federal and State disbursements at the PW level. GOSR confirms and coordinates with DHSES and the Division of the Budget that Non-Federal share payments have been made, to ensure that GOSR only reimburses the State for work that is performed and completed. Because payments may be processed at varying schedules by DHSES and FEMA, based in part on when work is completed by applicants, GOSR will review files based on when payments are made to applicants.

#### **3.5.1 FEMA Category (for PA Match only)**

FEMA has a detailed process that categorizes eligible projects by the type of work that needs to be repaired, restored, or removed following a disaster. PA Match projects are described as either being for emergency work (response-related), or permanent work (recovery-related). PWs clearly document the eligible work. Emergency work takes place immediately after an event and is comprised of two categories, Category A and Category B work. Permanent work restores or rebuilds a damaged asset and is comprised of five categories (Categories C-G). FEMA clearly distinguishes the eligible work through the series of work categories outlined below, to prevent a DOB. PA applicants can have work at the same facility that is both response and recovery related and across multiple categories. Only public entities, organizations, and specific not-for-profit entities are eligible for FEMA PA funding and they must demonstrate a direct tie to the storm to be eligible for payment. Private companies and utilities cannot receive funding.

GOSR reviews PWs by initially reviewing emergency work followed by permanent work, but this process may be subject to alteration based on what HUD required documentation is ultimately obtained from EMMIE and the applicants.

### **Emergency Work: Response Related (Categories A and B)**

#### **Category A: Debris Removal**

Clearance of trees and woody debris; certain building wreckage; damaged/destroyed building contents; sand, mud, silt, and gravel; and other disaster-related material deposited on public and, in very limited cases, private property.

#### **Category B: Emergency Protective Measures**

Measures taken before, during and after a disaster to eliminate/reduce an immediate threat to life, public health, or safety, or to eliminate/reduce an immediate threat of significant damage to improved public and private property through cost-effective measures.

### **Permanent Work: Recovery Related (Categories C – G)**

#### **Category C: Roads and Bridges**

Repair of roads, bridges, and associated features, such as shoulders, ditches, culverts lighting, and signs.

#### **Category D: Water Control Facilities**

Repair of drainage channels, pumping facilities, and some irrigation facilities. Repair of levees, dams and flood control facilities fall under Category D, but the eligibility of these facilities is restricted.

#### **Category E: Buildings and Equipment**

Repair or replacement of buildings, including their contents and systems; heavy equipment and vehicles.

#### **Category F: Utilities**

Repair of water treatment, and delivery systems; power generation facilities, and distribution facilities; sewage collection and treatment facilities; and communications.

#### **Category G: Parks, Recreation Facilities, and Other Facilities**

Repair and restoration of parks, playgrounds, pools, cemeteries, mass transit facilities, and beaches. This category also is used for any work or facility that cannot be characterized by Categories A-F.

### **3.5.2 Project Size**

When FEMA obligates a PWs, it provides funds to an applicant to initiate work. To facilitate how FEMA processes and reimburses applicants for work, FEMA categorizes the work into two categories, “Small” and “Large” projects, based on the total dollars provided to the project. The split between the Small and Large categories is determined by using the annual Consumer Price

Index, resulting in project threshold size varying by year. For example, in fiscal year 2014, a Small project is any eligible work, either emergency or permanent, costing up to \$68,500. Projects above this threshold are classified as Large projects. In subsequent years a different threshold is used.

FEMA undertakes this categorization so that it can facilitate review, approval and funding of repair projects. In most disasters, the vast majority of work consists of Small projects. Large projects are not only more costly but also typically more complex to manage. To facilitate the oversight of Large projects, a streamlined formulation process is used that consolidates specialized expertise in the disaster area. When FEMA receives a request for reimbursement of a Small project, it provides the entire federal share as a single reimbursement. For Large projects, FEMA reimburses only for work completed and “interim or progress payments” can be made while work is ongoing. GOSR, through its project review process, collects documentation equally for Large and Small projects to determine eligibility; however, it may decide to use the project size categorization to prioritize reviews for an applicant.

### **3.6 Environmental Review for Non-Federal Share Match Payments – Special Provisions Concerning Use of FEMA’s process**

Prior to CDBG-DR program funds being expended, a HUD environmental review must be completed. Following Superstorm Sandy, grantees that use P.L.113-2 funds were allowed to adopt and accept FEMA’s environmental review process if certain conditions and actions were taken. To document the environmental review process, for each project reviewed, GOSR maintains a letter adopting FEMA’s environmental review process in its program files, along with the FEMA **ERR**. An example of this is shown in Appendix 6 of this document.

Prior to February 2014, GOSR’s PA Match Program made payments using funds from the Irene and Lee CDBG-DR allocation P.L.112-55. Because match payments for those projects were made using that allocation, the State followed HUD’s environmental review process, including utilizing the exemption set forth in 24 CFR 58.34 for emergency work.

As noted above, under P.L. 113-2, grantees funded through the Sandy allocation were allowed to adopt the environmental review of another federal agency as long as the grantee notified HUD of this intent when Sandy CDBG-DR funds were used. GOSR informed HUD that the State would utilize this provision for the PA, TSA and HMGP Match Programs, and is relying on FEMA’s environmental review.

Therefore, since the transition to GOSR management of PA match obligations in February, 2014, in an effort to streamline the PA match process, and to utilize the environmental flexibility allowed in the March 27, 2014 Federal Register Notice (FR-5696-N-08) all match payments made with P.L. 113-2 grant funds to support PA applicants impacted by Hurricane Irene, Tropical Storm Lee, Superstorm Sandy, Winter Storm Nemo, and Upstate Severe Storms and Flooding have been made using the Superstorm Sandy allocation and GOSR is using the P.L. 113-2 environmental review adoption. The summary below shows which environmental reviews are being used based on the allocation and federal program.

## **1. FEMA PA and HMGP Programs**

- a. Hurricane Irene (DR-4020) and Tropical Storm Lee (DR-4031), FEMA PA and HMGP Applicants:
  - i) Payments made prior to October 31, 2013 used HUD's Environmental Review. PWs were funded with the Hurricane Irene/Tropical Storm Lee allocation (P.L. 112-55);
  - ii) Payments that use the P.L. 112-55 allocation continue to use HUD's Environmental Review; and
  - iii) Payments that use the Superstorm Sandy allocation (P.L. 113-2) use FEMA's Environmental Review.
- b. Superstorm Sandy (DR-4085), Winter Storm Nemo (DR-4111), Upstate Severe Storms and Flooding (DR-4129), FEMA PA and HMGP Applicants:
  - i) Payments use FEMA's Environmental Review Process.

### **3.7 Non-Federal Share Match Program Payment Policy**

While the Non-Federal Share Match Program supports the recovery efforts of units of local government, the Non-Federal Match payment is made to the State of New York, through coordination with the Division of the Budget and DHSES. The Division of the Budget works with all of New York's agencies and operates and oversees the State's finances. The Division of the Budget provides spending authority to DHSES to make the match reimbursement directly to communities for their Non-Federal Share requirement for covered disasters and funding sources. For the HMGP projects receiving funds under the Non-Federal Share Match Program, GOSR makes payments directly to the subrecipients while documenting the match payment to FEMA and DHSES; the policy is outlined in Section 4.0 of this document. For the FEMA PA and FEMA IA program projects receiving match funding, GOSR will directly reimburse the State of New York.

GOSR has chosen to reimburse the State instead of issuing payments directly to an applicant to streamline payments. As applicants draw down federal funds for repairs, they are able to receive reimbursement for the full amount of Federal and State shares at the same time. This is also necessary because GOSR, through the Non-Federal Share Match Program, will reimburse the State only for HUD-eligible storm-related damages. It is possible that while projects are FEMA compliant, they may not be fully compliant with HUD CDBG-DR criteria. Program staff will work directly with local entities that initiated the projects to verify project eligibility and collect necessary documentation so that payments made by GOSR to the State General Fund are HUD-compliant. These local entities will be required to comply with applicable CDBG-DR program requirements.

After January 2018, for any new PWs identified to be funded with CDBG-DR, Program will conduct further review of the documentation with regard to compliance with Federal Cost principles and not rely solely on FEMA's review.

#### **3.7.1 FEMA Transitional Shelter Assistance Payments**

For the TSA Match program, GOSR will only provide the required match funding for the TSA payments made in response to Superstorm Sandy. HUD regulations allow for Rental Assistance

for up to 90 days. GOSR has reviewed all TSA documentation to ensure that all payments were made in accordance with the regulations. GOSR reimbursed the Division of the Budget for all TSA match payments made by the State of New York for CDBG-DR eligible activities.

### **3.7.2 Long Island Power Authority Payments**

The Long Island Power Authority (LIPA)IPA, a public utility company, was eligible for CDBG-DR assistance through the PA Match Program for eligible activities. Recognizing the magnitude of damages and the need to make this critical infrastructure asset more resilient to future disaster events following two major disasters, the State and LIPA worked with FEMA to apply for FEMA's 428, or Public Assistance Alternative Procedures Pilot Program (PAAP). In conjunction with this, GOSR entered into a **SRA** with LIPA and assisted LIPA with match payments for those activities which addressed the immediate restoration of the Transmission and Distribution System damaged by Hurricane Irene and Superstorm Sandy. GOSR's Non-Federal share match payment reimburses the State General Fund, managed by the Division of the Budget for LIPA's eligible restoration costs. These match payments are made upon consultation with HUD Community Planning and Development staff. GOSR maintains a library of all documents related to the Non-Federal share match payment in the GOSR data warehouse, including those downloaded from FEMA's database and those items requested and obtained from LIPA.



## 4.0 Hazard Mitigation Grant Program Global Match Strategy Policy

**Note: The below policies in Section 4.0 apply exclusively to the GOSR HMGP Global Match Program.**

FEMA makes HMGP funding available to States after a Presidential disaster declaration. The purpose of this program is to fund projects that reduce risk to individuals and properties with a goal of diminishing reliance on Federal disaster funding in the future by mitigating the risks of future disasters. The amount of HMGP funding available to the applicant (State) is based on the estimated total Federal assistance that FEMA provides for disaster recovery under Presidential major disaster declarations, subject to the sliding scale formula outlined in 44 CFR 206.432(b).<sup>7</sup> Similar to FEMA PA, FEMA HMGP typically requires a Non-Federal Share Match of 25% of the total project cost. HMGP grants are provided by FEMA through the State to individual communities and eligible entities. In NYS, DHSES is the applicant, or grantee, of HMGP funds, as they are the State's responsible entity for the administration and management of the grant. Similar to GOSR's relationship with HUD, DHSES ultimately maintains the primary responsibility for FEMA HMGP, in its entirety, for each grant cycle in New York, and ensures that projects are in compliance with FEMA requirements and applicable State regulations.

GOSR, working in close coordination with DHSES, has two primary responsibilities in the HMGP effort: to review and recommend HMGP projects to DHSES and FEMA, and to lead the State's effort in identifying and maximizing funding sources that are needed to satisfy the Non-Federal Share Match requirement. Table 4 below shows the HMGP grants that were awarded to New York from 2011 to 2013, for which GOSR shares these responsibilities in accordance with P.L. 113-2.

Table 4: NYS Declared Disasters Associated With HMGP

Year	New York State Declared Disaster
2011	1957 – Severe Winter Storms and Snowstorms
2011	1957 – Severe Winter Storms and Snowstorms
2011	1993 – Severe Storms, Flooding, Tornadoes, and Straight Winds
2011	4020 – Hurricane Irene
2011	4031 – Tropical Storm Lee
2012	4085 – Superstorm Sandy
2013	4111 – Severe Winter Storm and Snowstorm
2013	4129 – Severe Storms and Flooding

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<sup>7</sup> Federal Emergency Management Agency, Hazard Mitigation Assistance Guidance, February 27 2015.

2011	1993 – Severe Storms, Flooding, Tornadoes, and Straight Winds
2011	4020 – Hurricane Irene
2011	4031 – Tropical Storm Lee
2012	4085 – Superstorm Sandy
2013	4111 – Severe Winter Storm and Snowstorm
2013	4129 – Severe Storms and Flooding

## 4.1 Global Match Strategy

Global Match is a funding strategy for FEMA HMGP that eliminates the need for eligible applicants to make the cost-share payments associated with each HMGP project and make the match payment based on the total of HMGP projects, and thereby reduces administrative burdens to the State and many subapplicants. In 2014, GOSR, in coordination with DHSES and NYS Division of the Budget, established an agreement with FEMA which allowed the State to use CDBG-DR funds as a Non-Federal Share Match for HMGP funding. This agreement built upon HUD’s allowance for States to use CDBG-DR funds as Non-Federal Share Match for other Federal grant programs as an eligible activity (42 U.S.C. 5305(a)(9)). Projects receiving any CDBG-DR funding as part of this program are referred to as “Global Match Projects.”

Leveraged together, DHSES’s HMGP and GOSR’s CDBG-DR programs ensure that New Yorkers receive the greatest and most efficient benefit from Federal recovery funding while rebuilding in smarter, more resilient ways. By utilizing CDBG-DR funding to cover the HMGP Non-Federal Share Match, these two funding sources leverage Federal dollars to help storm-impacted communities escape the burdensome need to make match payments. Without Global Match, each project’s subapplicant would be required to provide the 25% cost share, an onerous requirement for many storm-hit and economically struggling communities.

Through Global Match, GOSR meets this 25% local match requirement on an aggregate level, rather than a project-by-project level. This approach simplifies program administration by allowing the State to concentrate its Non-Federal Share Match spending in a small number of closely managed projects rather than funding portions of a much larger number of projects. GOSR coordinates with DHSES to invest CDBG-DR match funds to reimburse funds advanced by Division of the Budget to subrecipients.

This policy shifts the Match burden from a 25% requirement for every project to a higher percentage requirement for a small number of projects, allowing many others to be funded 100% by FEMA HMGP. Therefore, these projects will be effectively matched but will not receive any CDBG-DR funds. For example, in Table 5 and Figure 1 below, a portion of all projects are funded with a Non-Federal Share Match. Whereas, in Table 6 and Figure 2, Global Match scenario one project is fully funded with the Non-Federal Share Match funding but still effectively and satisfactorily matches the aggregated FEMA grant. GOSR, FEMA, and DHSES have approved this methodology, and approval is referenced in the letters attached in Appendix 11.

Table 5: Sample Typical HMGP Project Breakdown

Projects	HMGP Funding	Non-Federal Share Match Funding (CDBG-DR)	Total Funding
Standard HMGP Project 1	75%	25%	100%
Standard HMGP Project 2	75%	25%	100%
Standard HMGP Project 3	75%	25%	100%
Standard HMGP Project 4	75%	25%	100%
Total Percentage of Project Costs paid by Program	<b>75%</b>	<b>25%</b>	<b>100%</b>

Figure 1: Sample Standard HMGP Project Breakdown

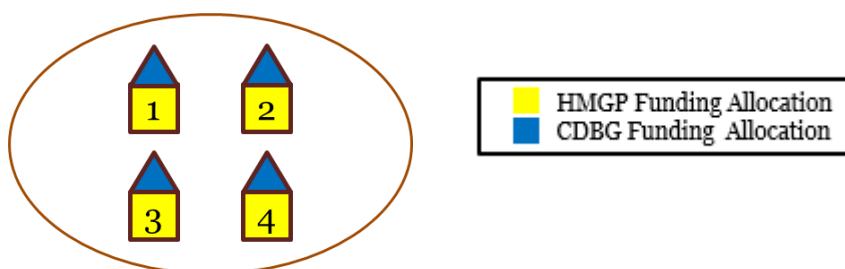
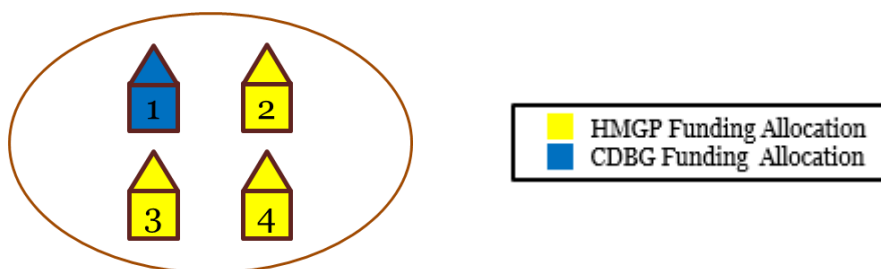


Table 6: HMGP Global Match Strategy

Projects	HMGP Funding	Non-Federal Match Share Funding (CDBG-DR)	Total Funding
Standard HMGP Project 1	0%	100%	100%
Standard HMGP Project 2	100%	0%	100%
Standard HMGP Project 3	100%	0%	100%
Standard HMGP Project 4	100%	0%	100%
Total Percentage of Project Costs paid by Program	<b>75%</b>	<b>25%</b>	<b>100%</b>

Figure 2: HMGP Global Match Strategy



Note that funding percentages within Global Match may vary by project. Some Global Match Projects may receive funding shares other than 75% HMGP and 25% Non-Federal Share Match or 100% HMGP and 0% Non-Federal Share Match based on timing, funding availability, and administrative considerations for individual projects. Due to budgetary and regulatory constraints, some HMGP subrecipients will provide their own Non-Federal Share funding to help meet match requirements. Collectively, the State will ensure that the total dollar value of

the Non-Federal funds applied to HMGP projects will equal or exceed the minimum 25% Non-Federal Share Match for the overall Statewide HMGP grant award for each eligible declared disaster.

One advantage of the Global Match Strategy is that it allows the State to utilize eligible CDBG-DR projects located in HUD eligible Hurricane Irene-, Tropical Storm Lee-, or Superstorm Sandy-affected areas to help meet the match for all FEMA HMGP disasters. Global Match also eases the funding burden on storm-affected local governments and non-profits which, following a disaster and the many associated recovery costs, may not be financially capable of putting up the 25% Non-Federal Share themselves. Global Match also allows the State to fund some HMGP projects using 100% FEMA funds, thus creating efficiencies in application development and project management while minimizing the need for many individual applicants to comply with the requirements of two Federal agencies.

Projects may initially come to GOSR's HMGP Global Match Non-Federal Share Match Program (HMGP Global Match Strategy) through a DHSES-identified HMGP project sub-application or from a GOSR-identified CDBG-DR project **Application**. In either case, the Global Match projects are subject to both FEMA and HUD regulations. HMGP projects located in counties and/or areas that primarily benefit LMI persons and meet LMI funding requirements will be prioritized for CDBG-DR Non-Federal Share Match funding. Subrecipients initially submit projects to DHSES to be considered for HMGP funding. Through this pre-application process DHSES, in coordination with GOSR, reviews projects for HMGP eligibility. Additionally, GOSR reviews projects submitted in the pre-application phase for CDBG-DR eligibility to determine if they have met HUD HMGP Non-Federal Share Match requirements.

Projects selected for the HMGP Global Match Strategy will be defined as either Floodplain Management or Infrastructure projects.

#### 4.1.1 Floodplain Management

Within the NY Rising Infrastructure HMGP Floodplain Management Program (FMP), a unit of local government or eligible non-profit entity (the subrecipient) may: purchase a flood-prone structure from a willing seller and then demolish or relocate it to a site outside the floodplain<sup>8</sup>; or assist eligible property owners within the floodplain in elevating their structures to a safe height. Any purchased land is deed-restricted and maintained as open space in perpetuity to restore and/or conserve the natural floodplain functions in accordance with FEMA regulations.<sup>9</sup> This is coordinated with the regulations governing HUD CDBG buyouts, which are also deed-restricted and maintained as open space.

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<sup>8</sup> HMGP defines "acquisitions" as property buyouts specifically for deed-restricted open space; this is synonymous with CDBG-DR "buyouts." This should not be confused with CDBG-DR "acquisitions" which allow for redevelopment; NY Rising Infrastructure will not engage in CDBG-DR acquisitions for redevelopment.

<sup>9</sup> 44 CFR 80.19

September 9, 2021

The NY Rising Infrastructure HMGP FMP includes HMGP Match for Long Island and Staten Island (LISI) Buyouts, as well as the Sidney Floodplain Management Project. The Sidney Floodplain Management Project has evolved into two separate components called the Sidney Buyouts Components and the Sidney Elevation Components. These, components are discussed in detail in a separate Policy and Procedure Manual.

#### **4.1.1.1 Sidney Project**

The Sidney Project follows the Floodplain Management-designated HMGP policies to be funded in whole or in part with CDBG-DR funds. To meet the HMGP Match requirement, the Sidney Project must be implemented by an entity eligible to receive CDBG-DR funds through a **SRA** with GOSR. FMP subrecipients must comply with pre-application and application procedures of the NY Rising Local Government and Critical Infrastructure Program including, vetting by a panel of GOSR staff for conformance with CDBG-DR eligibility requirements and FMP policies. Once **Applications** are approved, the subrecipient, Delaware County, is required to follow all requirements, including quarterly reporting, as determined by HUD, FEMA, GOSR, and DHSES. The subrecipient will maintain all materials on-site and will provide copies of all CDBG-DR and HMGP materials to GOSR – and, upon request, to DHSES. Records will be maintained in accordance with GOSR recordkeeping requirements set out in Section 2.10.8.

A separate Policy and Procedure Manual was developed for the Sidney Project to document the policies and procedures that are unique to the project’s buyouts and elevations activities. Please see the Manual for the Sidney project buyouts and elevations policies and procedures.

#### **4.1.1.2 Long-Island Staten Island Buyouts**

Long-Island Staten Island (LISI) Buyouts Program involves GOSR submitting NY Rising Buyouts program homeowner applications to FEMA to obtain Global Match credit. LISI **Applications** must meet all HMGP policies (Section 4.0), as well as CDBG-DR buyouts policies and procedures as recorded in the NY Rising Buyout and Acquisition Program manual.

#### **4.1.2 Infrastructure**

HMGP funds can also be used to address infrastructure needs. Infrastructure projects, which are defined as mitigation projects (not including buyouts, elevations, or relocations), are intended to either protect a critical infrastructure asset necessary to the community, mitigate risk to historical structures, and/or fortify public space or structures such as shorelines, hospitals, and wastewater systems. These projects align with HUD infrastructure projects under eligible activity 105(a)(2) and will be subject to the policies and procedures of the Infrastructure Program outlined in this Manual as well as applicable FEMA regulations.

### **4.2 HMGP Requirements**

Before any activity can be approved through HMGP, including CDBG-DR funded Global Match activities, the activity must meet all eligibility requirements outlined in 44 CFR 206, Subpart N as summarized below in Table 7. Any HMGP project being funded in part by CDBG-DR must also meet the CDBG-DR eligibility criteria set out in Section 2.0. Both GOSR and DHSES work with subrecipients to ensure that Global Match projects meet all applicable regulations. Prior to

submission of Applications to FEMA, DHSES works with HMGP applicants to ensure the HMGP criteria below are met for all projects. GOSR works with subrecipients to ensure all CDBG-DR requirements are met for both floodplain management and infrastructure projects as described above.

Table 7: HMGP Criteria Summary

HMGP Criteria Summary	
<input type="checkbox"/>	The activity conforms to the State's Hazard Mitigation Plan (see Section 4.3).
<input type="checkbox"/>	The project has a beneficial impact on the disaster area, i.e. the State (see Section 4.4).
<input type="checkbox"/>	The project meets the necessary environmental requirements (see Section 4.5).
<input type="checkbox"/>	The project is autonomous of other projects, solving a problem independently (see Section 4.6).
<input type="checkbox"/>	The project is considered cost-effective (see Section 4.7).

### 4.3 Conforming with the State and Local Hazard Mitigation Plans

A subrecipient that wishes to receive FEMA HMGP funding after a disaster must have participated in and adopted a FEMA-approved Hazard Mitigation Plan to be eligible. This details the State-determined natural hazards and vulnerabilities for the area, as well as the locality's mitigation goals and priorities. Projects submitted to DHSES for consideration must be consistent with the objectives of the NYS Hazard Mitigation Plan.

Pursuant to the requirements of 44 CFR 201.4, the State Multi-Hazard Mitigation Plan is required to focus on natural hazards that are likely to substantially impact the State. Table 8 outlines the goals of the 2019 State Hazard Mitigation Plan. This is also found on the DHSES website at <http://www.dhses.ny.gov/recovery/mitigation/plan.cfm>.

Table 8: Goals of the 2019 State Hazard Mitigation Plan

Goals of the 2019 State Hazard Mitigation Plan	
Goal 1	<b>Documents</b> New York's progress in identifying risks and mitigating natural hazards to avoid the loss of lives and injury and reduce the damage to state-owned and -managed infrastructure.
Goal 2	<b>Integrates</b> local Hazard Mitigation Planning with the State Plan, by providing TA for local mitigation planning including consistent, up-to-date web-based risk and capability analysis tools to facilitating project development and evaluation statewide.
Goal 3	<b>Transitions</b> the State's framework from static planning documents to data-rich, web-based planning tools accessible to all.
Goal 4	<b>Encourages</b> Hazard Mitigation Planning in coordination with resiliency planning, smart growth, land-use planning, and environmental planning.
Goal 5	<b>Provides</b> a comprehensive picture of the State's hazard mitigation capabilities.
Goal 6	<b>Enables</b> decision-makers in all levels of government and the private sector to develop, prioritize, select and implement well-conceived risk reduction actions.

The following Table outlines the goals of the 2014 State Hazard Mitigation Plan.



Table 9: Goals of the 2014 State Hazard Mitigation Plan

Goals of the 2014 State Hazard Mitigation Plan	
Goal 1	Promote a comprehensive State hazard mitigation policy framework for effective mitigation programs that include coordination between Federal, State, and local organizations for planning and programs.
Goal 2	Protect property including public, historic, private structures, and critical facilities and infrastructure.
Goal 3	Increase awareness and promote relationships with stakeholders, citizens, elected officials, and property owners to develop opportunities for mitigation of natural hazards.
Goal 4	Encourage the development and implementation of long-term, cost-effective, and resilient mitigation projects to preserve and/or restore the functions of natural systems.
Goal 5	Build stronger by promoting mitigation actions that emphasize sustainable construction and design measures to reduce or eliminate the impacts of natural hazards.

To ensure that the proposed projects are eligible and aligned with State and local planning initiatives, projects are reviewed against both the plan adopted by the subrecipient and the State's plan to ensure that it:

1. Addresses the hazards and risks identified in each plan;
2. Meets the State's primary goals as identified in the State's Hazard Mitigation Plan; and
3. Has one of the actions identified by the subrecipient as a viable mitigation measure in the subrecipient's adopted plan.

If a subrecipient's proposed project is not in agreement with the State's Hazard Mitigation Plan, it is often possible for a subrecipient to join a local plan or modify an existing plan with their proposed project to meet this requirement. In these instances, the proposed project will be reviewed in coordination with DHSES and the local planning agencies, and will need to be approved by these agencies prior to the commitment of funding by the State (in advance of formal FEMA approval of the project, as well as GOSR approval as applicable).

The FEMA Regional Administrator may grant an exception to the local jurisdiction or Indian Tribal mitigation plan requirement in extraordinary circumstances when justification is provided. If this exception is granted, a local jurisdiction or Indian Tribal mitigation plan must be approved by FEMA within 12 months of the awarding of project funds.

#### 4.4 Beneficial Impact

A Project chosen for HMGP funding must have the potential to reduce loss of life and property over the long term. Further, it must be both feasible and cost-effective, in that it can be completed in a timely fashion and meet accepted best practices, codes, standards, or techniques.

To assess the beneficial impact of a project proposed for HMGP funding, each project application must be reviewed for conformance with the latest adopted version of the FEMA Benefit-Cost Analysis tool. The Benefit-Cost Analysis utilizes the “history of hazards” in the impacted area, which includes the number of past disaster events, recurrence of events, amount of damage or loss of life from events, and other data that will provide relevant detail regarding the risk to the area, property, and residents. This information, along with an understanding of the need for action in an area, can be found in the State Hazard Mitigation Plan.

The beneficial impact is assessed by reviewing possible alternatives or the costs of no action. Subrecipients should provide these possible alternatives within a project proposal, which will be assessed in the same manner as the project for eligibility and cost-efficacy. A reviewer will also assess the long-term costs or hazard impact of allowing the hazard to persist with no mitigation at all.

A project can be considered to have a beneficial impact when the history of hazards demonstrates the quantifiable risk to the community over the long term and when alternatives can be considered ineligible or costlier to the government and/or the community. Cost-effectiveness plays a significant role in FEMA eligibility for funding approval (see Section 4.7 for more information on determining cost-effectiveness).

## 4.5 Environmental Requirements

All federally funded projects are subject to environmental review procedures and requirements of the t. For HMGP and Global Match projects, GOSR’s Bureau of Environmental Review and Analysis (BERA) works with DHSES and FEMA to determine the most effective way to perform the NEPA environmental review. In most instances, to avoid duplication of efforts, FEMA will serve as the responsible entity pursuant to NEPA, and GOSR will adopt FEMA's NEPA findings in accordance with the March 4, 2013 Memorandum "Adoption of FEMA and Other Federal Environmental Reviews and Processing for Hurricane Sandy Supplemental Appropriation (H.R. 152) Activities."<sup>10</sup> Following FEMA’s determination under NEPA, GOSR will, as necessary, adopt the environmental review pursuant to the provisions of P.L. 113-2. Additionally, GOSR’s BERA will work to form cooperative agreements with FEMA to coordinate on environmental review determinations, whether made by FEMA or by GOSR under 24 CFR 58.

Projects funded by GOSR are also subject to and must comply with the NYS Environmental Quality Review Act (SEQRA). GOSR’s BERA works with DHSES to determine the most effective way to perform the SEQRA environmental review. In most instances, where a project is required to undergo an environmental review pursuant to SEQRA, GOSR typically serves as the SEQRA Lead Agency and conducts a “coordinated review,” per the requirements of SEQRA.

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<sup>10</sup> Adoption of FEMA and Other Federal Environmental Reviews and Processing for Hurricane Sandy Supplemental Appropriation (HR 152) Activities ([hudexchange.info](http://hudexchange.info))

## 4.6 Utility of a Project

To be funded per FEMA HMGP regulations, a project must be independent of other projects and solve a given problem or condition in its own right. More specifically, the efficacy of a project's hazard mitigation attributes cannot be conditioned on the success of other projects.

Project utility, as defined by FEMA for HMGP eligibility, is determined during the preparation of applications for FEMA HMGP review. The utility is defined by applicants/subrecipients in both narrative and quantitative formats. The narrative component is included in the justification sections of both the HMGP application and the CDBG-DR **Pre-Application**, and also provides the basis for alternatives analysis when required. Quantitative utility analysis is documented as part of the cost-effectiveness calculation.

To determine the utility of a project, GOSR's reviewers determine the actual cause of damage and make a determination as to whether or not this cause will be mitigated to an acceptable level through the steps related to the project. If not eliminated, the GOSR reviewer needs to determine whether or not the project will mitigate the damage if the cause persists.

Should additional possibilities for damage be found, or should it be found that more work is necessary to eliminate causes of damage, GOSR may determine that the project does not have independent utility. In such instances, GOSR will work with the subrecipient to either refine the project's scope to better achieve the project's intended benefits or will work with the subrecipient to find a new project to meet the same need.

## 4.7 Cost-Effectiveness

Projects must be cost-effective to be eligible for HMGP funding, meaning that the costs of undertaking and maintaining the project over the course of the project's life must be less than the benefits it poses to bring. Project costs, costs of maintenance over the course of the project's intended use, and previous damage costs are all included in a Benefit-Cost-Analysis (BCA) to project the intended savings, or benefit of the proposed action.

To determine cost-efficacy, the FEMA-approved BCA Tool evaluates the possible benefits of a project when compared directly to the costs associated. In rare cases, FEMA policy guidance asserts cost-effectiveness determinations with respect to specific mitigation project categories for which traditional BCA is not used. Future benefits of a project must be equal to or greater than the costs of the project, leading to a benefit-cost ratio of 1.0 or higher to be eligible, with higher BCAs showing more cost-effective projects.

As noted, conceptual alternative projects developed to satisfy HMGP subapplication and environmental review requirements are also evaluated for cost-effectiveness prior to rejection in favor of the preferred project.

## 4.8 CDBG-DR Criteria

To be confirmed by GOSR as a part of the CDBG-DR funded Global Match Non-Federal Share Match Strategy, each project is reviewed for CDBG-DR project eligibility in accordance with 24

CFR 570 and the Federal Register Notices issued for Tropical Storm Lee, Hurricane Irene, and Superstorm Sandy as outlined in Table 9 below.

Table 10: CDBG-DR Criteria Summary

CDBG-DR Criteria Summary
<input type="checkbox"/> The project is located in an eligible county (see Section 2.1.1.1)
<input type="checkbox"/> Project sustained damaged during a qualified storm event (see Section 2.1.1)
<input type="checkbox"/> The subrecipient or homeowner meets one of the CDBG National Objectives (see Section 2.1.2)
<input type="checkbox"/> The project meets HUD environmental requirements (see Section 5.5.9)
<input type="checkbox"/> The project meets one of the defined eligible activities (see Section 2.1.3)
<input type="checkbox"/> The project satisfies CDBG requirements related to Duplication of Benefits and Order of Assistance, as applicable (see Sections 2.4 and 2.3)

The project must also meet any other Non-Federal Share Match criteria and CDBG-DR requirements outlined in the State’s Action Plans and this Policy Manual.

#### 4.8.1 Eligibility for CDBG-DR funded Global Match Projects Floodplain Management

For Floodplain Management projects, potential subrecipients must have been impacted by a HUD-eligible event and be located in a HUD-eligible county. Projects must demonstrate a tie to the disaster. Additionally, subrecipients must demonstrate management capacity and project eligibility for FEMA HMGP, as defined by applicable Hazard Mitigation Assistance guidance. Projects must improve floodplain conditions by removing at-risk properties (including residential or commercial) from the floodplain through buyouts or relocations, and/or elevating structures in the floodplain above the base flood elevation (including freeboard as defined by relevant HUD, FEMA, and NYS regulations).

#### 4.8.2 Eligibility for CDBG-DR funded Global Match projects – Infrastructure Program

For a Global Match project to be funded with CDBG-DR funds under the Infrastructure Program, the project must meet all of the requirements outlined in Sections 2.0 and 5.0 of this document for the Local Government and Critical Infrastructure Program, including being located in a storm-impacted county.<sup>11</sup> The project must have been impacted by Hurricane Irene, Tropical Storm Lee, Superstorm Sandy, the Upstate Severe Storms and Flooding or Winter Storm Nemo. GOSR will document the storm impact in its program files. Projects will not be funded if they are not related to the impact of the disaster.

### 4.9 HMGP Project Prioritization and Review

Demand for FEMA HMGP funds and GOSR Non-Federal Share Match assistance far exceeds the available resources of either program, necessitating prioritization of project **Applications**

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<sup>11</sup> FEMA allows statewide eligibility for HMGP projects regardless of the locations of the declared disaster’s impacts. Global Match projects, as recipients of CDBG-DR funds, will follow HUD’s geographic eligibility requirements.

before they are submitted to DHSES, FEMA or GOSR reviewers. In prioritizing NYS HMGP projects, DHSES and GOSR give preferences to HMGP **pre-applications** that meet the HMGP criteria outlined in Sections 4.2 through 4.8.

Based on these criteria, GOSR utilizes both DHSES' HMGP pre-application files and the NY Rising Infrastructure Program Policy and Procedure Manuals to identify projects for the program. Based on this filtering, projects identified from the existing pool must:

1. be in a county that is eligible for both HUD and FEMA funding;
2. be eligible for both HUD and FEMA funding upon review;
3. meet eligibility requirements for applicable GOSR CDBG-DR program; and
4. meet the goals of NY Rising, as identified in the introductory section entitled *Fulfilling the Principles Established by New York State's Action Plan*.

Once identified as potential HMGP Global Match Strategy projects, GOSR prioritizes these projects based on the following criteria:

1. location and LMI benefit of a project;
2. feasibility of FEMA HMGP eligibility and approval;
3. recovery benefit to the subrecipient and community; and
4. project cost and available program funds.

Final HMGP project selection and decision on the amount or percentage of funding that is allocated from the programs is made by the Director of Project Delivery, based on CDBG-DR funding allocated in the most recent GOSR Action Plan Amendment, as well as the other criteria listed above. Review and consideration by the Infrastructure program ensures that HMGP funds, Global Match Project credit, and Non-Federal Share Match from non-GOSR sources are all calculated before the expenditure of GOSR CDBG-DR funds is considered.

#### **4.9.1 Location and LMI Benefit of a Project**

As outlined in the State's Hurricane Irene and Tropical Storm Lee Action Plan and subsequent amendments, as well as the Superstorm Sandy Action Plan and subsequent amendments, CDBG-DR funds were allocated to address the HMGP Non-Federal Share Match needs of all 38 Federally-declared counties impacted by these events. All eligible applicants in the Hurricane Irene and Tropical Storm Lee counties are also eligible to receive Superstorm Sandy funds. All projects considered for prioritization in the HMGP Non-Federal Share Match Program must satisfy the requirements for CDBG-DR projects, including National Objective and tie to the storm, as described in Section 2.1. Projects impacted by the storm and located in most impacted counties, and/or principally benefiting areas of LMI, receive additional consideration.

#### **4.9.2 Feasibility of HMGP Eligibility and Approval**

Projects which are used as part of the HMGP Global Match financing strategy cannot count towards match requirements until the project is completed and closed out by FEMA. Therefore, it is an essential first step to selecting a project for this process to select projects which meet the HMGP and HUD eligibility requirements and meet all of the Global Match requirements

outlined in Section 4.8 of this Manual. Ensuring this eligibility and approval from FEMA is key to completing the Global Match Strategy for the State.

#### **4.9.3 Project Cost**

Project cost is measured against funding availability to determine whether a project's inclusion in HMGP is both possible and an effective use of the funding amounts available given unmet need. Larger or scalable projects will be given preference, where possible, to limit the number of projects exposed to both HUD CDBG-DR and FEMA HMGP requirements, maintaining efficiencies in project administration. This process allows the State to reduce the administrative burden on most HMGP subrecipients, while still coordinating the benefits of HMGP and CDBG-DR projects across the State and its constituent regions. If available, local funding may be used for HMGP Match projects to complement CDBG-DR and/or HMGP funding and enable projects to be completed.

Once GOSR identifies potential projects using the above criteria, GOSR reaches out to subrecipients to notify them of GOSR's strategy for providing CDBG-DR Non-Federal Share Match for the project. GOSR's HMGP Match projects may be 100% CDBG-DR funded, or utilize a blend of CDBG-DR, HMGP, and/or local funds. GOSR provides any technical training necessary to aid subrecipients in the application and project processes.



## 5.0 Local Government and Critical Infrastructure Program Policies

As outlined in the overview of this Manual, the Local Government and Critical Infrastructure Program is designed to meet additional unmet recovery needs of communities impacted by Hurricane Lee, Tropical Storm Lee, and Superstorm Sandy. The Program is divided into four Sub-Programs: Energy Infrastructure Sector, Local Government Support Program, Water and Wastewater Infrastructure Sector, and the Natural Resource Infrastructure Sector. This overarching program is designed to address unmet needs that are not met through other Federal disaster recovery programs. This program works in close collaboration with the Non-Federal Share Match Program and other federal disaster recovery programs to provide recovery assistance for the gaps which are not met through these programs. All projects funded under the four Sub-Program areas must meet all of the requirements outlined in Section 2.0 of this Manual.

### 5.1 Energy Infrastructure

This Sub-Program is designed to develop innovative energy infrastructure to enhance the resilience of storm-impacted communities. This will enable residents and businesses to recover from future disasters more efficiently. This Sub-Program provides funds to make storm-impacted critical community assets more resilient to future events through the construction and development of microgrids.

Working in coordination with NYS Energy Research and Development Authority (NYSERDA), GOSR developed creative strategies for addressing power reliability challenges. GOSR met with NYSERDA to determine estimated needs to create a microgrid pilot program. As such, GOSR and NYSERDA launched the three-phased NY Prize competition with the objective of repairing damaged energy systems and developing resilient “microgrid” power systems. The NY Prize Competition challenges New York communities, businesses, entrepreneurs, and electric utilities to design and implement community-based microgrids, which offer energy independence as well as local power generation and distribution.

Additionally, these standalone energy systems can operate independently in the event of a power outage and advance the resilient recovery of some of the State’s most vulnerable communities. The competition spurs new business models and community partnerships with the private sector to increase reliability and reduce costs for consumers. The competition, run in three phases by NYSERDA, results in the selection of between three to six winning projects. Based on the location of the winning CDBG-DR eligible designs, GOSR will provide up to \$20 Million in CDBG-DR funds to complete the final construction phase.

#### 5.1.1 CDBG-DR Microgrids

In 2015, NYSERDA, in partnership with GOSR, announced the availability of up to \$40,000,000, under the three-stage NY Prize Community Grid Competition (NY Prize) to support the development of community microgrids. Microgrids are self-sustaining, small electric grids with independent generation resources and internal loads that may or may not be connected to the larger electric utility “macrogrid.”

The purpose of the NY Prize Community Microgrid Competition is to develop innovative energy infrastructure strategies to enhance the resilience of storm-impacted communities and enable residents and businesses to recover more quickly from future disasters through the development of microgrids. This program provides funds to promote the design and construction of community microgrids that improve local electrical distribution system performance and resiliency in both a normal operating configuration, as well as during times of electrical grid outages.

GOSR plans to fund multiple community microgrid designs and construction projects by providing up to a total of \$20 Million in CDBG-DR funds, toward the development of standalone energy systems (microgrids) that can operate independently in the event of a power outage, and advance the resilient recovery of some of the State's most vulnerable communities.

NYSERDA and GOSR recognized that two complimentary NY Prize tracks should be developed: one for commercial/private sector teams and one for public entities.

During Stage 1, NYSERDA accepted proposals for funding to conduct engineering assessments that evaluated the feasibility of installing/operating a community microgrid at a site within NYS. NYSERDA's NY Prize program produced over 83 detailed feasibility reports for municipalities throughout the state of New York. The feasibility reports provide in-depth knowledge of project cost estimates, timelines, energy production, program income, and annual maintenance costs.

After Stage 1, the competition is being broken into two separate paths where projects will be advanced using either NYSERDA or GOSR funds. The GOSR funds are limited to public or private non-profit entities eligible for HUD CDBG-DR grants, while the NYSERDA funds are open to private entities as well. GOSR's Microgrid program engages with municipalities that were not awarded funds from NYSERDA and fit the Microgrid program selection criteria.

NYSERDA's parallel competition included a Stage 2 Design competitive Request for Proposal (RFP), and a Stage 3 Project Build-Out RFP. Winners of Stage 3 will likely be awarded in late 2018 or early 2019.

GOSR will attempt to keep a similar schedule, but Stage 2 and 3 competitions are combined in GOSR's program—if a candidate is selected by GOSR, both design and (pending a successful design), construction funding are provided without additional competition.

#### **5.1.1.1 Eligible Subrecipients**

GOSR approached NY Prize candidates who would be eligible to participate in the Local Government and Critical Infrastructure Program, to design and construct microgrid systems in NYS that will enable communities to recover more quickly from future disasters. These complementary projects are focused on public entities as opposed to the NYSERDA competition which allows for private entity participation.

GOSR's evaluation determined which proposals met CDBG-DR criteria. Winning submissions must be HUD CDBG-DR-eligible, of which requirements include, but are not limited to:

- No private utilities as the recipient of these grant funds<sup>12</sup> ;
- The community microgrid be in a NYS county<sup>13</sup> receiving a Presidential Disaster Declaration in 2011, 2012, or 2013; and
- A rationale for building that demonstrates how it would help with long-term recovery from this disaster and a clear tie to the disaster<sup>14</sup>.

GOSR also prioritized projects which would benefit a LMI population and meet the LMI national objective.

Additionally,

- Microgrids must support multiple facilities, at least one of which must be identified as a critical facility; and
- Reimbursement for already-incurred expenses is not available but will be viewed as value-added as evidence of the entity's seriousness to complete the project. These will also be credited as "leveraged funds" in the **Application**.

Municipalities with winning microgrid projects are required to execute a **SRA** that includes GOSR's Supplemental Contract Conditions and comply with all HUD CDBG-DR funding rules and guidelines, and all Infrastructure Program policies and procedures.

#### **5.1.1.2 Project Selection**

After identifying eligible subrecipients within the pool of NY Prize applicants, and prioritizing projects with an LMI national objective, GOSR reached out to potential subrecipients to assess project feasibility. Feasibility criteria include the availability of additional funding if required to implement the project, and the availability of a subrecipient to implement a project within the required timeframe. Some potential subrecipients were not responsive and GOSR did not pursue funding their respective projects.

Program staff determined that three microgrid projects have eligible and responsive subrecipients, meet the LMI national objective, and are feasible to implement with the available budget and required schedule.

After project selection, the CDBG-DR funded microgrid projects are implemented according to the Local Government and Critical Infrastructure Program implementation policies from **Pre-Application Report (Pre-Application)** onwards (See Section 5.5.5).

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12 March 5, 2013 Federal Register notice. Page 14335. <https://www.gpo.gov/fdsys/pkg/FR-2013-03-05/pdf/2013-05170.pdf>  
 13 PL 113-2. Counties must be presidentially declared disaster counties for Hurricane Irene, Tropical Storm Lee, Superstorm Sandy, Winter Storm NEMO or Upstate Flooding.

14 The responder should explain how this microgrid will increase the rate at which the area affected by the disaster will recover more completely and faster and subsequently be resistant to future storm-related threats.

## **5.2 Local Government Support Program**

This Sub-Program is designed to provide additional CDBG-DR funding to address unmet Superstorm Sandy recovery needs in HUD-declared most impacted counties. This program works closely with the PA Match Program to ensure that storm-impacted counties and municipalities can address unmet infrastructure and essential service recovery needs by advancing projects that meet CDBG-DR eligibility requirements but do not fulfill FEMA PA eligibility requirements. Funding for this program was based on damages to housing and public infrastructure. While GOSR provides funds to counties and municipalities to address unmet recovery needs, each funded entity is responsible for identifying and prioritizing eligible projects, bringing them to GOSR for consideration, and following processes detailed in this Manual. GOSR along with its project coordinators, work with local governments to assist the continued repair and mitigation of public facilities and services. GOSR is aware that many local and municipal governments, school districts, and Public Housing Authorities in HUD's most impacted counties, continue to find unmet recovery needs relating to Superstorm Sandy and that these emerging costs of recovery can put a strain on their capacity to provide essential services to residents in these counties currently and in the future. GOSR reserves the right to allocate additional recovery funds to these entities through this program as these unmet recovery needs are identified. GOSR pays particular attention to unmet needs that are tied to the FEMA PA program. When FEMA has determined that a recovery need is not eligible for the PA program, but there is a direct and clear tie to community recovery and are related to the impacts of Sandy, GOSR engages with units of local government, public housing, school districts, and DHSES to identify gaps in recovery that could be met through this Program.

### **5.2.1 Eligible Counties**

Most impacted and distressed counties for Superstorm Sandy are eligible for this program, as defined by HUD. Those counties are set out in Section 2.1.1.1.

### **5.2.2 Eligible Subrecipients**

Eligible subrecipients for this program must be either a HUD eligible county, Public Housing Authority, school district, or local government. Westchester County government currently cannot receive HUD CDBG-DR funds and is excluded.

### **5.2.3 Allocation Methodology**

Funding for this program was initially based on damages to housing and public infrastructure using FEMA PA obligated funds and FEMA Housing Damage Estimates. Using a weighted formula, GOSR used 2/3 of the eligible PA dollars and 1/3 of housing damage estimates to allocate funds to the most impacted counties as these measures ensure that the two primary unmet needs of each the county are met.

#### **5.2.3.1 Use of FEMA PA Categories**

FEMA Category C-G work is referred to as permanent recovery work and includes the repair and restoration of roads and bridges; water control facilities; buildings and equipment; utilities; and parks, recreational facilities, and other items. Permanent recovery work, therefore, can be used as a proxy for significant damages to an area and accurately reflects the level of infrastructure needs within each eligible county. GOSR utilized a weighted calculation by using two-thirds of FEMA

PA dollars for a community after omitting Category A and Category B work, addressing debris removal and emergency protective measures, to meet immediate post-storm disaster recovery needs.

GOSR used all FEMA C-G PWs within EMMIE that are located within the eligible counties and had been eligible PWs on December 8, 2014, to determine total obligated amounts within each county. Additionally, all category C-G PWs where work was performed by a State agency in an impacted county has been geo-coded when possible, to the county that corresponds to where the work is located.

In the calculation, GOSR also excluded the PA Match associated with the Bay Park Wastewater Treatment Plant, as it is a part of FEMA's Public Assistance Alternative Procedures (PAAP) Pilot Program.

### 5.2.3.2 FEMA Housing Damage

To quantify housing damage for the Local Government Support Program, GOSR totals the number of severe and major damaged units as determined by FEMA for each eligible county. FEMA calculates owner-occupied homes in each eligible county classified as having suffered severe damage as one unit, while those homes classified as having suffered major damage are considered a half unit.

### 5.2.3.3 Total Allocation

The weighted percentages calculated for the FEMA C-G work and the damage estimates for owner-occupied homes are combined for each county. As shown in Table 11 below, the combined weighted percentages are multiplied by the \$40 million in Local Government Support Program funding to obtain the initial allocation of funding each applicant is eligible to receive.

Table 11: Total Allocation Breakdown by County

	Allocation of Funds to Eligible Counties	
	Combined Weighted Percentage	Allocation of \$40 million Based on Weighted %
Nassau	68.91%	\$ 27,565,135.46
Rockland	3.40%	\$ 1,361,318.63
Suffolk	27.68%	\$ 11,073,545.91
	100.00%	\$40,000,000.00

### 5.2.4 Project Selection

GOSR notified eligible applicants of the Local Government Support Program. Eligible applicants provided a list of activities that represent an unmet need in the county from the impacts of Superstorm Sandy. The proposed projects must have a tie to the storms, represent an eligible CDBG-DR activity, meet one of the three HUD-defined National Objectives, and not represent any type of DOB. Once the list of potential recovery projects is sent to GOSR, the Infrastructure program staff work with the applicant to review projects and identify those projects which meet all CDBG-DR program criteria, and fall within the program budget. Applicants may request assistance with essential services but must adhere to the criteria listed below. GOSR and the project coordinators work with applicants to identify these eligible projects. Once a final project or set of projects are selected, GOSR works with the applicant to execute a **SRA** and begin the

application process outlined in Section 5.5 of this Manual.

### 5.3 Water and Wastewater Treatment Facilities

This Sub-Program includes the standalone wastewater treatment projects of Bay Park Wastewater Treatment Plant and Suffolk County Coastal Resiliency and Water Quality Improvement Initiative (SCCRI). Treatment facilities are generally located in low-lying areas and thus were heavily impacted by Superstorm Sandy. Total estimates to repair the full slate of storm-impacted facilities in NYS exceeds \$1 billion. The recovery, repair, and resilience of these treatment facilities are a priority for GOSR.

#### 5.3.1 Standalone Water and Wastewater Treatment Plant Projects

GOSR identifies standalone infrastructure projects in this category such as the covered projects SCCRI and Bay Park Wastewater Treatment Plant. Repairing the damage caused by Hurricane Irene, Tropical Storm Lee, and Superstorm Sandy to these critical facilities is essential to the impacted region's recovery. GOSR has committed to ensuring that necessary repairs are completed and resilient systems are put in place. Below are two project overviews, complete with the specific eligible applicants and allocation methodologies.

##### **A. Suffolk County Coastal Resiliency and Water Quality Improvement Initiative:**

The SCCRI is a resiliency project that aims to address public health and water quality while benefiting the communities. Suffolk County has a federally designated sole source aquifer; it derives its drinking water from the ground. The severe flooding in this region during Superstorm Sandy raised the groundwater elevation above the top of the septic systems and cesspools, resulting in the mix of sanitary wastewater and groundwater, causing public health and water quality hazards. The impacts of Superstorm Sandy exacerbated the already rising nitrogen pollution from failing septic and cesspools along river corridors and into the Great South Bay. Nitrogen pollution has caused a water quality crisis, and the erosion of coastal wetlands, which have been scientifically proven to reduce vulnerability from storm surge.

As noted in Section 5.5.5, project **Pre-Applications** are not required for capital construction projects arising from GOSR-funded planning studies. The SCCRI project will be subject to all the MCD requirements that GOSR currently has in place. GOSR staff and consultants work directly with Suffolk County to ensure that the project remains compliant throughout the life of the project, from concept stage to planning, construction, and closeout. The project follows the process that GOSR has developed for all infrastructure projects, whereby each project is developed and vetted to ensure that it meets all CDBG-DR requirements. The County prepared an **Application** for planning work under the Infrastructure program where it determined that data gathering, identification of existing relevant reports and studies, preliminary strategy discussions, and communication among the involved entities was necessary to further develop a project description and implementation strategy. After this initial **Application** was accepted, the planning work was completed. The County proceeded to work with the State and its CDBG-DR grant consultants to develop further **Applications** for construction scope for review and approval by GOSR. The County proceeded to work with the State and its CDBG-DR grant consultants to develop further **Applications** for construction scope for review and approval by GOSR.



**Eligible Subrecipient:** GOSR has entered into a **SRA** with Suffolk County and all other required entities to administer this project.

#### **B. Bay Park Wastewater Treatment Plant:**

An additional Covered Project approved by HUD in Action Plan Amendment 9, Bay Park is the largest wastewater treatment plant in Nassau County, treating 58 million gallons of wastewater a day and serving more than 550,000 residents representing 40% of the county's population. Superstorm Sandy caused catastrophic damages to the facility. During Superstorm Sandy, engines for the plant's main pumping system were flooded by over nine feet of water, destroying the plant's electrical system and compromising other critical components of the plant. The electrical failure resulted in over 200 million gallons of raw sewage being discharged into nearby neighborhoods, waterways, and natural resource areas causing a public health crisis and safety hazard for these areas. The level of discharge also had a direct impact on already fragile natural resources surrounding Bay Park Wastewater Treatment Plant.

**Eligible Subrecipient:** GOSR has entered into a **SRA** with Nassau County to administer this project.

## **5.4 Natural Resources Infrastructure**

This Sub-Program is designed to promote the State's commitment to restoring and addressing damages that Superstorm Sandy had on the State's natural resources. Additionally, this Sub-Program strives to fulfill the commitment the State made to use natural resource systems (dunes, wetland forests, marshlands), and green infrastructure to meet recommendations made by the Hurricane Sandy Rebuilding Task Force, and embrace HUD's recommendation that grantees incorporate natural resiliency measures into infrastructure projects. The State will also use funds to address the recovery and rebuilding needs of State agencies and units of local government who pursue projects that are natural resource-based and/or incorporate green infrastructure methods in project design. Examples of projects that may be developed include: restoring, developing, and/or enhancing natural barrier dune systems, wetland habitats, nearshore vegetation, and forest canopies; creating living shorelines; and restoring man-made or natural beach or riverine environments.

### **5.4.1 Eligible Counties and Geography**

Most impacted counties for Superstorm Sandy are eligible for this sector, as defined by HUD. Those counties are Nassau, Suffolk, Rockland, and Westchester (See Section 5.4.2) and the five New York City counties: Kings, Queens, Richmond, Bronx, and New York.

Funds may only be used in these counties to address unmet recovery needs in public spaces, public parks, preserves, nature areas, trails, beaches, waterways, and for publicly accessible fishing piers and boat launches.

### **5.4.2 Eligible Subrecipient**

Eligible subrecipients for this sector must either be a county or local government or State agency located in counties listed above. Westchester County government currently cannot directly receive or manage HUD CDBG-DR funds and is excluded from this Program. Other entities can manage

CDBG-DR funding, but public parks and lands managed and owned by public entities are eligible.

### 5.4.3 Eligible Applicants

Applicants eligible for this sector are constrained to units of governments (Local, County, or State) whose work is primarily focused on natural resources areas and outdoors. Examples of eligible applicants include local and county governments park and recreation departments; NYS Parks Recreation and Historic Preservation (NY OPRHP) NYS Department of Environmental Conservation (NYSDEC).

### 5.4.4 Covered Project in Natural Resources Infrastructure Sub-Program

GOSR identifies natural resources infrastructure projects in this category such as the covered projects of Roberto Clemente State Park Shoreline and Park Improvements. Repairing the damage caused by Superstorm Sandy to these critical facilities is essential to the impacted region's recovery. GOSR has committed to ensuring that necessary repairs are completed, and resilient systems are put in place. Below is the project's overview, complete with the specific eligible applicants and allocation methodologies:

#### A. Roberto Clemente State Park Shoreline and Park Improvements:

Roberto Clemente State Park was severely impacted by Superstorm Sandy when a storm surge topped the park's bulkhead and flooded the pool and park buildings. Three feet of water inundated the park's fields and plazas, while 13 inches of water found its way into the main building. The bulkhead and electrical infrastructure were extensively damaged, and the natural shoreline along the park's northern edge suffered severe erosion. As the floodwaters receded, the soil under the concrete esplanade was washed away, causing the concrete sidewalk to fail in several places, jeopardizing the esplanade and the bulkhead's structural integrity. The esplanade has been closed since the storm and will not reopen until the bulkhead is replaced.

**Eligible Subrecipient:** GOSR has entered into a **SRA** with the NY OPRHP, and all other required entities to administer this project.

## 5.5 Local Government and Critical Infrastructure Program Implementation Policies

This section of the Manual provides an overview of the Local Government and Critical Infrastructure Program's project implementation policies. Though each project is funded through one of the unique sectors outlined above, all programs for implementation follow the same policies shown below.

### 5.5.1 Project Risk Assessment

Grant Managers undertake a **Risk Assessment** to determine a potential project's risk level. Factors considered in the risk assessment are:

- Sponsoring entity (the proposed subrecipient);
- The complexity of project;
- Entity's experience;
- Funding;

- Environmental factors;
- Land acquisition/relocation factors; and
- Involvement by additional entities.

The **Risk Assessment** provides a risk score, which is the estimate of the probability that a project will not succeed (i.e. not be completed in a CDBG-DR compliant and timely manner). To determine the risk score, each factor receives a low, moderate, or high rating, and each rating receives a specific weight. A risk score of 0 percent to 40 percent is considered low risk; 41 percent to 70 percent moderate, and 71 percent to 100 percent high. The risk assessment, along with Infrastructure Program staff experience in dealing with a subrecipient, is used to determine the level of TA to be provided to the subrecipient.

### 5.5.2 Grant Manager Selection

The Local Government and Critical Infrastructure Program retained a vendor to offer support throughout the Local Government and Critical Infrastructure Program implementation process, acting as project Grant Managers and offering overall program development support. The Grant Managers and other consultant staff provide planning, advisory consulting, and project management support to both Infrastructure Program Staff and subrecipients.

The firm was chosen through a RFP. The RFP had the following criteria:

1. Experience and Capacity;
2. Technical Approach;
3. Proposal Rate Structure;
4. Information Technology; and
5. Knowledge of Sandy Recovery in New York.

Copies of all contracts awarded by GOSR can be found on [www.stormrecovery.ny.gov](http://www.stormrecovery.ny.gov).

### 5.5.3 Subrecipient Selection and Capacity

For the Local Government and Critical Infrastructure Program, GOSR enters into **SRA** with counties, local governments, or private non-profits, or **Memorandum of Understanding (MOU)** with State agencies, to implement the projects in each program. GOSR selects a suitable subrecipient for each project by direct, discretionary selection. Because many of the Local Government and Critical Infrastructure programs are designed to further the recovery of the local governments and repair critical infrastructure impacted by Hurricane Irene, Tropical Storm Lee, and Superstorm Sandy, GOSR has engaged the entities who have relevant jurisdictional oversight over the projects.

GOSR reviews subrecipients' Single Audits (pursuant to 2 CFR 200 Subpart F) and audits from the State Comptroller's Office. Infrastructure Program staff reviews the audits as part of the capacity check and continues to collect subsequent audit reports, with MCD reviewing on a continual basis (for more on MCD's audit review role see Section 2.7). All Local Government and Critical Infrastructure Program subrecipients and projects are provided with a Project Manager and Grant Manager, which is an Infrastructure Program staff member or consultant, respectively,

and are required to take part in ongoing TA without regard to risk or project size. GOSR's TA is intended to not only build a subrecipient's capacity, transfer knowledge, but also to ensure compliance with CDBG-DR requirements for the life of the project.

#### **5.5.3.1 Subrecipient Selection Criteria**

Subrecipients should demonstrate the following qualities:

- Prior experience with executing CDBG, CDBG-DR, or other federally funded projects including but not limited to knowledge and prior experience with the following:
  - 24 CFR 84 and 85 requirements;
  - Documentation that the project meets a CDBG National Objective; and
  - Documentation that the project's expenditures are for CDBG Eligible Activities.
- Staff capacity to effectively manage CDBG-DR grants, including but not limited to:
  - Capacity to perform financial management and oversight;
  - Capacity to perform grant management functions as demonstrated through prior experience with managing grants with in-house staff or with a grants management consultant;
  - Internal auditing capability;
  - Administrative staffing; and
  - Knowledge of both Federal and State procurement and contracting requirements.
- Knowledge and experience in the financial management of Federal grant funds, specifically of CDBG funds; and the ability of financial systems to meet all State and Federal requirements including but not limited to:
  - Accounting methods, and budget controls;
  - Proof that expenditures are necessary, reasonable, and directly related to the grant;
  - Monitoring and controls of timely expenditure of Federal funds;
  - Compliance with 2 CFR 200 (effective for awards made after December 26, 2014, formerly OMB Circular A-87 (government agencies) or A-122 (for non-profits), A-121 (for higher learning institutions));
  - Completion and results of prior audits under 2 CFR 200 Subpart F (formerly under A-133; effective for awards made after December 26, 2014), if applicable; and
  - Completion and results of any other audits as it relates to financial capacity.
- In good standing with the State of New York (for entities other than public entities);
- Experience, knowledge, and compliance with all Federal regulations outside of direct CDBG requirements, as it applies to the grant including, but not limited to, the following requirements:
  - Davis-Bacon and all labor standards, Section 3, M/WBE, environmental, lead-based paint, Civil Rights, Section 504, Uniform Relocation Act, Fair Housing Act (FHA), ADA, Age Discrimination Act, and records management.

### 5.5.3.2 Direct Selection

Under the Local Government and Critical Infrastructure Program, subrecipients are selected based upon sub-program requirements to implement the appropriate project. GOSR's ability to directly select a qualified subrecipient is allowed under HUD Section 24 CFR 570.500(c).

GOSR may directly select a subrecipient:

- When an entity is uniquely qualified to implement a project because either the entity has sole jurisdiction over the project or complete control/ownership over a project site;
- When the jurisdiction is the applicant to another federal recovery program, and GOSR is paying the Non-Federal Share Match for the project being implemented;
- When there is a reasonable basis to conclude that the direct selection of the subrecipient will result in increased efficiencies for the State and more quickly result in the project being implemented thereby more quickly addressing the unmet need; and
- When there is reasonable evidence to conclude that the minimum needs of the Program project can only be satisfied by the selected subrecipient.

### 5.5.4 Subrecipient Agreement

Once GOSR has selected a subrecipient for participation in the Infrastructure Program, GOSR works with the subrecipient to execute a **SRA**. The **SRA** serves as the mechanism for the transfer of funds to the subrecipient, and requires compliance with all federal, state, and local laws, as applicable. In many cases, the agreement has no funding attached to it at the time of initial execution; it functions as a **MOU** between GOSR and the subrecipient. These \$0 agreements will be amended to incorporate the scope and budget of specific projects as subrecipients submit **Applications** and are accepted by GOSR. For projects where the subrecipient is another state agency, a **MOU**, rather than an **SRA**, is executed.

Under earlier policies, capital projects required multiple amendments to a **SRA**. The first amendment would provide the funding necessary to support planning and design activities. The second (or subsequent) amendment would provide the funding necessary to support construction activities following the completion of project design and full environmental clearance. Planning or public service activities typically required a single amendment following the approval of the project. In these instances, GOSR certified that any planning or design activities were exempt from environmental review requirements before funding those activities through a **SRA** amendment.

However, in December 2015, the Infrastructure Program's policy changed to allow a single amendment to a **SRA** to provide all the funding necessary to implement a project upon the acceptance of a project **Application**, regardless of whether the project is a capital or non-capital project. Nonetheless, a subrecipient may not expend funds for construction until the project is approved by the Infrastructure Program. **SRAs** may be amended additionally at any point during implementation, as required by specific circumstances.

**SRAs** may be amended throughout a project's lifecycle and will be considered on a case-by-case basis.

### 5.5.5 Pre-Application

**Project Pre-Applications** are drafted by program staff with consultation from a vendor that GOSR procured to provide project delivery support. The purpose of the **Pre-Application** process is to document:

- How the project meets one of HUD's three National Objectives;
- How the project is an eligible activity; and
- How the project is tied to one of the five disasters.

The **Pre-Application** consists of:

- A project description;
- Tie to the disaster;
- Assigned National Objective;
- Project eligibility review under 24 CFR 570.483;
- Project cost estimate;
- Statement of justification and recommendation; and
- Other relevant information.

The project description contains a level of detail sufficient for assessing the appropriate level and scope of any environmental review requirements. **Project Pre-Applications** are not required for capital construction projects arising from GOSR-funded planning studies. A **Pre-Application** is attached to this document in Appendix 13.

#### 5.5.5.1 Pre-Application Review Panel

Each project's **Pre-Application** is reviewed by a GOSR Pre-Application review panel, composed of at a minimum of three rotating members from GOSR's Compliance, Legal, Policy, Finance, and Environmental departments. The panel votes on if the project meets at least one National Objective, meets at least one eligible activity, and has a tie to the storm. **Pre-Applications** that receive two of the three panelists' votes advance to the full project application phase. **Pre-Applications** that do not receive a majority of the votes are not advanced. **Pre-Applications** may be advanced with qualifications, which are noted on the voting sheets, as panelists evaluate all aspects of the project in addition to those noted above. Subrecipients will be notified of the pre-application review panel's decision.

### 5.5.6 Application

Once a project's **Pre-Application** is approved, the subrecipient completes and submits to GOSR the full project application. Infrastructure Program staff and project coordinators (if applicable) provide the subrecipient with support in completing the **Application**. The full **Application** provides:

- A detailed description of the project;
- Tie to the disaster;



- Information pertaining to CDBG-DR eligibility;
- A project cost estimate;
- Project maps;
- Project time schedule;

A sample **Application** is provided in Appendix 14.

### 5.5.7 Application Approval

Once a project is advanced by the application panel, the subrecipient will be notified of the application review panel's decision via an **Project Approval Letter from GOSR to the Subrecipient** that is sent electronically. A copy of this letter is placed in the project file.

### 5.5.8 Documenting Project Changes

Changes to projects are documented through **SRA Amendments** or other methods, (if the **Application** has been accepted or approved) and changes to contracts are documented through the **Contract Amendment and Change Order Form**. **Contract Amendments** are for non-construction contracts and construction change orders are for construction-related contracts. In some cases, an **SRA** may need to be amended *and* a contract amendment or change order may be needed; in other cases, only an **SRA** amendment *or* contract amendment or change order may be necessary.

#### 5.5.8.1 Application Amendments

From May 2017 to November 2019, capital and non-capital project **Applications** were amended<sup>15</sup> after they were accepted or approved at any point until project closeout. The cutoff for submitting **Application** amendments was in November 2019. From November 2019 onwards, documenting project changes, that would have previously required an **Application** amendment, is performed via **SRA** amendment or other method as described below.

#### 5.5.8.2 SRA Amendments

As of November 2019, changes to accepted project **Applications** are documented using the **SRA Amendment**. Changes to the **Application** that are captured in the **SRA** Amendment include project budget, whereby project budget is increased above the **SRA** total budget; project scope; project schedule, whereby project completed will extend beyond September 2022; and subrecipient add/switch.

#### 5.5.8.3 Other Methods

As of November 2019, changes to project budgets whereby the budget is decreased or increased, but the total amount in the **SRA** remains the same, are documented and approved in the **Project Budget Adjustment Approval Memo**. When funds are removed from an **SRA**, this change is

documented is documented and approved in the **SRA Budget Adjustment Approval Memo**. Changes to a project's National Objective are documented by changing the project's Disaster Recovery Grant Reporting System (DRGR) code at the time of the change. Changes to project information, including beneficiary, elected official, and schedule change that does not go beyond September 2022, are documented in the **Program Dashboard**. All of the above changes are also documented in the **Project Closeout/Cancellation/Subrecipient Switch Review Checklist** during the project closeout phase.

#### **5.5.8.4 Non-Construction Contract Changes**

Non-construction contract changes are documented and approved using the **Contract Amendment and Change Order Form**. A cost reasonableness review (CRR) (if removing or adding scope) should be completed and reviewed to document any project changes; for contracts over \$15,000, an Independent Cost Estimate (ICE) and CRR are needed.

#### **5.5.8.5 Construction Change Orders**

Changes to construction contracts are documented and approved in the **Contract Amendment and Change Order Form**. In general, the Program will only approve non-discretionary<sup>16</sup> change orders which impact performance, safety, health, or the regulatory requirements of the project.

There are three tiers of change order review and approval, depending on whether the change order is urgent (needs to be approved immediately to address a health or safety emergency), time sensitive (needs to be approved within three business days in order to prevent work stoppage), or not time sensitive (approval granted in over three business days). The subrecipient's Construction Project Manager must review the situation and determine the urgency level.

Urgent change orders do not need GOSR approval prior to the subrecipient issuing Notice to Proceed (NTP), as allowed under 2 CFR 200.320 (f)(2), but must be documented by submitting the **Contract Amendment and Change Order Form** within three weeks of NTP. Time sensitive change orders need pre-approval by phone or email with GOSR Program staff before subrecipient can issue NTP. The **Contract Amendment and Change Order Form** must be submitted within three weeks after the NTP. Non-time sensitive change orders are approved through the execution of the **Contract Amendment and Change Order Form**.

Should scope and budget change so significantly during construction that a new construction procurement (typically a sealed bid) is required, an **SRA** amendment may be required to be submitted by the subrecipient.

### 5.5.9 Environmental Review

CDBG-DR funding is contingent upon compliance with NEPA and related environmental and historic preservation legislation and Executive Orders. In addition, the HTFC, as well as agencies and units of general local government (UGLGs) in NYS must comply with the SEQRA. New York City agencies must also comply with the City Environmental Quality Review (CEQR). In general, GOSR's BERA serves as the lead agency for the purposes of NEPA, SEQRA, and CEQR. In certain circumstances, GOSR may decide to cooperate in a joint environmental review with another federal or state agency or a UGLG. GOSR may also choose to delegate its NEPA or SEQRA responsibilities if, in the discretion of a GOSR Certifying Officer, such delegation is warranted and supported by law.

HUD's Environmental Review Procedures allow grantees, such as NYS through GOSR, to assume environmental review responsibilities under NEPA. In accordance with 24 CFR Part 58 and pursuant to the State's Grant Agreement with HUD, GOSR serves as a "Responsible Entity" responsible for undertaking compliance efforts for the Program. Within GOSR, BERA will be responsible for performing environmental reviews and compiling the **(ERRs**. BERA conducts environmental reviews either directly or through the use of qualified environmental service contractors. The GOSR Certifying Officers are ultimately responsible for certifying that GOSR's environmental reviews comply with NEPA and HUD environmental regulations.

In accordance with Public Law 113-2, when GOSR uses CDBG-DR funds to supplement federal assistance provided under Section 402, 403, 404, 406, 407, or 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), GOSR may adopt an environmental review, approval, or permit performed by a Federal agency by conducting GOSR's own review, publishing notice and submitting a Request for Release of Funds (RROF) as needed. Such adoption shall satisfy the responsibilities of GOSR with respect to environmental review.

The requirements associated with CDBG-DR funds allocated under Public Law 112-55 do not allow GOSR to adopt another Federal agency's environmental review.

In general, environmental review of projects will consist of the following steps:

- The Infrastructure Program provides BERA with a project description for review. Project descriptions must be detailed enough so that the scope of the project and its potential environmental impacts are clear. Generally, construction projects with 30 percent design have sufficient details to conduct an environmental review;
- BERA reviews the project description provided by the Infrastructure Program staff and categorizes the action with regard to the appropriate level of environmental scrutiny that must be applied;
- With regard to NEPA, BERA will determine whether projects are Exempt from environmental review, Categorically Excluded from environmental review, or require an Environmental Assessment (EA);
- With regard to SEQRA, BERA determines whether Program projects are Type I, Type II, Exempt, or Unlisted;

- BERA grants a general exemption for qualified activities associated with project development that is required to generate project information necessary for environmental reviews, project feasibility assessments, and the creation of funding applications;
- BERA conducts the appropriate environmental analysis and prepares compliance documentation in support of each project, except for qualified exempt activities that fall under the general exemption for project development, in accordance with HUD's NEPA regulations and SEQRA;
- Upon completion of the environmental review of an action that is Categorically Excluded but subject to 24 CFR 58.5 (Cat Ex A) or that requires an EA or Environmental Impact Statement (EIS) GOSR submits a Request for Release of Funds to HUD;
- HUD reviews and approves or denies the RROF. If approved, HUD will issue an **Authority to Use Grant Funds (AUGF)** authorizing the commitment of HUD funds to a particular project;
- BERA distributes the ERR, which includes the **Environmental Clearance Letter (ECL)**, NEPA documents, and others noted above to the subrecipient and signifies the completion of the environmental review process as well as any closeout conditions required for project completion; and
- A project may be approved by the Program after BERA issues the **ECL**.

For projects that exceed and/or meet the Covered Project threshold, GOSR, through Program and BERA, will follow the steps listed above but will include consultation with SIRIC and utilize the Federal Permitting Review team. The requirements associated with CDBG-DR funds allocated under Public Law 112-55 do not allow GOSR to adopt another Federal agency's environmental review. Further information concerning the environmental review process is set forth in the BERA Policy Manual.

#### 5.5.10 Project Delivery and Project Administration Costs

In general, only subrecipient administrative and project delivery costs incurred after the acceptance of a project **Application** by GOSR and execution of an amendment to the **SRA** are eligible for reimbursement. The Infrastructure and Local Government Program will coordinate and communicate with the subrecipient on whether project delivery and administrative costs are to be provided to supplement the grant or if these costs are included in the project amount. While GOSR may provide subrecipients with up to 10% of the cost of a project for subrecipient project delivery costs and up to 0.5% of the cost of a project for subrecipient administrative costs, depending on the type of project, a subrecipient must submit a detailed justification and budget for all requested administrative and project delivery services as part of the project **Application**. Costs must not be duplicative of services provided by GOSR through its staff or consultants. All proposed subrecipient administrative and project delivery costs must be determined to be allowable, allocable, and reasonable during the project application review process outlined in Section 5.5.7 .

Examples of project delivery costs include costs directly associated with the delivery of a project,

such as staff or third-party compensation for time devoted to the implementation of a specific project, public notices and advertisements directly related to a specific project, and legal expenses directly related to a specific project. Examples of project administration costs include costs not directly associated with the cost of a project, such as the costs associated with a subrecipient's completion of a Single Audit.

In certain instances, fringe salary costs may be considered part of project delivery costs. These fringe benefits may include vacation and sick time if requested by the subrecipient and approved by GOSR.

For subrecipient employees whose time is solely dedicated to a project, GOSR may pay the employee's entire salary (including paid time off), as well as permit the subrecipient to add on fringe benefits for payroll taxes and retirement.

For either case of subrecipient employees, if a subrecipient's employee working on a GOSR project has an overall fringe benefit rate of over 40 percent, Grant Managers must first do an analysis confirming the reasonableness of the fringe benefit. In addition, employees with higher than median fringe benefits for their organization cannot be assigned to the Infrastructure project without prior approval from GOSR.

#### 5.5.11 Subrecipient Procurement

Subrecipients must follow federal, state, and local procurement rules when purchasing services, supplies, materials or equipment. The procurement requirements found at 2 CFR 200.317-326 establish CDBG-DR standards and guidelines for the procurement of supplies, equipment, construction, engineering, architectural, consulting, and other professional services. Subrecipients must also follow applicable conflict of interest provisions in federal, state, and local regulations. If a real or perceived potential conflict of interest is identified, subrecipients must contact GOSR for further guidance.

Prior to entering into a professional services or construction contract, subrecipients shall vet vendors (also referred to as contractors) as follows:

- Subrecipients shall require proposed vendors to complete a vendor responsibility questionnaire (VRQ). The VRQ will depend on the type of contractor (for-profit or non-profit) as well as the type of project (construction or non-construction);
- Subrecipients shall review the VRQ and conduct their own vetting (using the GOSR Business Integrity Guide) which includes a federal and State debarment search. Subrecipients shall return the completed **Business Integrity Determination Form** to GOSR, the completed VRQ, and any correspondence with the proposed vendor. Contractors or subcontractors debarred, suspended, or proposed for debarment are excluded from receiving contracts, and GOSR will not award or consent to contracts or subcontracts with these contractors; and
- In accordance with the GOSR Business Integrity Guide, GOSR will review the submitted materials. Contractors or subcontractors debarred, suspended, or proposed

for debarment are excluded from receiving contracts, and GOSR will not award or consent to contracts or subcontracts with these contractors.

- As of August 2021, GOSR Legal conducts vendor vetting in addition to the vendor vetting performed by Subrecipients.

To help assure that subrecipients' procurements will be in compliance with regulations, GOSR provides subrecipients with RFP/Q procurement templates. GOSR will also provide procurement TA consisting of:

- Review of 2 CFR 200.320 procurement requirements related to competitive proposals and small purchases;
  - The GOSR TA<sup>17</sup> determines if a constructability and code compliance review is necessary. This determination is documented and uploaded to the GSP. If necessary, a constructability and code compliance review is completed either by the Dormitory Authority of the State of New York (DASNY), the subrecipient's in-house licensed engineer, or a third party;
    - Upon completion of the review, a satisfaction letter is issued and uploaded to the GSP;
      - If a subrecipient's in-house licensed engineer is completing the review, they inform GOSR that the review is complete via email, memo, or an approval stamp on the design drawings;
    - DASNY will always complete a constructability and/or code compliance review on projects they are the subrecipient for;
  - In addition to the constructability and code compliance reviews, State agencies review projects as needed for permitting; and
- Review of subrecipient procurement documents, with TA as necessary.

GOSR will also review draft procurement documents and a procurement record before consenting to the subrecipient entering into a contract with a selected consultant or contractor. GOSR will not review any documents in advance of a micro-purchase, which is any purchase under \$3,500. However, subrecipients must demonstrate cost reasonableness when they seek reimbursement from GOSR.

#### **5.5.11.1 Professional Services**

In order to develop a detailed project description and a conceptual cost estimate for a project **Application**, GOSR or the subrecipient may engage the services of professional architects or engineers. If the subrecipient engages the architect or engineer directly, the subrecipient must comply with CDBG-DR procurement guidelines. The scope of the procurement may also include future services for design, surveying, and construction inspection/representation services. As of June 2020, Subrecipients who proceed with authorizing the design professional to proceed with any services other than those necessary for the preparation of the **Application**, until the New York



Rising Community Reconstruction Program (NYRCR) formally accepts the project **Application** and issues contract consent, do so at their own risk, as those services may be ineligible for reimbursement. For costs incurred prior to **Application** acceptance and contract consent prior to June 2020, GOSR may reimburse for that work based on review for eligibility of costs.

As noted above, GOSR provides subrecipients with RFP/Q procurement templates, reviews the procurement record (including executing a **Sealed Bidding, Award, and Contract Execution Checklist**), provides consent for the subrecipient to enter into the contract, provides guidance on the contract scope, and reviews the subrecipient's Architectural and Engineering (A/E) contract for HUD compliance prior to the subrecipient entering into the contract.

#### **5.5.11.2 Construction Services**

GOSR issues a notice authorizing the subrecipient to advertise for bids following the completion of:

- A review of plans and specifications and completion of a **Bid Document Review Checklist** by GOSR;
- As appropriate, a review of plans and specifications for code compliance by a subrecipient's in-house licensed engineer. When a state agency performs an engineering review of a project, GOSR will not require an additional constructability and code compliance review;
- Environmental clearance of proposed construction activities;
- Verification that all lands, rights-of-way, and easements have been acquired; and
- Verification that all other program requirements have been met.

After authorization to advertise for bids has been issued, the subrecipient may proceed with public advertising for bids in accordance with federal, state, and local procurement standards. Generally, under New York law, local governments are required to advertise for competitive bids for public work contracts in excess of \$35,000. However, if the subrecipient is subject to other State or municipal procurement guidelines, the strictest threshold should be applied to the procurement. The contract should be awarded to the lowest priced responsible bidder that has complied with the specifications. In some cases, the lowest bid received will exceed the amount of funds allocated for the project. When this happens, the subrecipient must contact GOSR to determine the best option to proceed.

Before the subrecipient can enter into a contract for construction services, GOSR must issue contract consent.

GOSR issues contract consent after verifying the following using the **Sealed Bidding, Award and Contract Execution Checklist**:

- The advertisement of bids was competitive and compliant with federal, state, and local requirements;

- The lowest responsive responsible bidder submitted a M/WBE and Section 3 utilization plan which met the goals, or provided documentation of sufficient good faith and Greatest Extent Feasible (GEF) efforts;
- The Business Integrity Determination forms have been completed and reviewed by GOSR, and no issues identified;
- The documentation of bid bonds have been submitted and are in compliance with the bid documents;
- The construction contract is within the scope and budget of the latest **SRA** amendment; and
- The **Application** has been approved.

#### 5.5.11.3 Multi-Funded Contracts

A project, as defined by all components that make up a GOSR **Application**, may include multiple funding sources by 1) incorporating CDBG-DR funding and another source(s) of funding into one contract, and/or by 2) letting multiple contracts that are part of the same project but utilize different funding sources for each contract. In accordance with OOA requirements, CDBG-DR funds must never displace other available grant funds from FEMA and USACE, and thus CDBG-DR funds should be used as the funding source of last resort (see Section 2.3). If other non-CDBG-DR grant funds impacted by OOA requirements have been awarded, those funds should be fully obligated, before obligating CDBG-DR funds to ensure that CDBG-DR funds are not displacing these other grant funds.<sup>18</sup>

For contracts that incorporate both CDBG-DR funding and other funding source(s), GOSR and CDBG-DR requirements apply to the entire contract. GOSR monitors these contracts for compliance and requires the subrecipient to submit documentation of all invoices, regardless of if they are paid for by CDBG-DR funds.

For contracts that have no GOSR CDBG-DR funding but are part of a GOSR CDBG-DR funded project, GOSR monitors and ensures that CDBG-DR regulatory and reporting requirements are satisfied as applicable.

#### 5.5.12 Recapture

GOSR is responsible for ensuring that CDBG-DR funds awarded through the Infrastructure Program comply with all federal, state, and local requirements. To ensure subrecipients receiving CDBG-DR assistance are using the funds for their intended purpose, GOSR requires all subrecipients to execute an **SRA** stipulating each party's responsibilities and the potential penalties if the subrecipient is found not to have fulfilled their obligations. Specifically, the agreement requires the subrecipient to return any, and all CDBG-DR funds to GOSR which are found to be ineligible, unallowable, unreasonable, a duplication of benefits, or non-compensable, no matter the cause.

Throughout a project's lifecycle, iterative steps are taken by Infrastructure Program and GOSR staff, such as the MCD, to monitor for and address subrecipient compliance concerns. These iterative steps provide subrecipients an opportunity to avoid the actions or adequately rectify the actions that could lead to recapture. However, the Infrastructure Program may use recapture as a method to encourage compliance and as a tool of last resort to rectify non-compliance when subrecipients are unable or unwilling to adequately address non-compliant actions.

#### Conditions for Recapture of Funds from a Subrecipient

Subrecipients are at risk for the recapture of previously paid GOSR funds if GOSR identifies subrecipient non-compliance with GOSR policies and/or CDBG-DR regulations. These actions include but are not limited to:

1. Ineligibility of previously reimbursed item;
2. Subrecipient substantial non-compliance;
  - a. Including issues related to:
    - i. Davis Bacon;
    - ii. Environmental review;
    - iii. Mismanagement of funds on an individual project basis, across projects, or on a subrecipient level;
    - iv. Procurement or contract management;
    - v. Obtaining and maintaining flood insurance;
    - vi. **SRA** non-compliance;
    - vii. Failure to meet a national objective or HUD eligible activity;
    - viii. Missing or late submittal of Single Audits;
    - ix. Results from a HUD Office of Inspector General audit.
3. DOB or OOA compliance issue identified;
4. Subrecipient fraud, waste, or abuse on an individual project basis, across projects or on a subrecipient level; and
5. Subrecipient voluntary or involuntary withdrawal from a project, leading to project lack of completion.<sup>19</sup>

Funds to be recaptured are identified at a project level, not across multiple projects, should a subrecipient have multiple active projects at one time. However, should a subrecipient with multiple active projects be in recapture due to a concern that impacts all or multiple projects, GOSR will withhold all payment on the subrecipient's active projects in question until recapture proceedings are complete.

The amount of money identified for recapture will be the minimum amount of money GOSR believes is non-compliant and/or at risk of recapture from HUD.

#### **5.5.13 Canceled Projects**

Projects that will not complete an eligible activity within the CDBG-DR grant deadlines that meet one of the following requirements must be canceled:

1. Funds have been disbursed to the subrecipient; or
2. the **Application** has been accepted.<sup>20</sup>

A change in subrecipient or dropping of a project component is not a canceled project. Changes such as a subrecipient switch or the dropping of a project component are memorialized through the controlling document at any given stage, such as the **SRA** amendment.

A subrecipient may work with GOSR to cancel a project for the following reasons:

- Findings from the environmental review;
- Cost reasonableness;
- Feasibility;
- Costs of other projects;
- Eligibility;
- Lack of support for the project by property owners/beneficiaries;
- Subrecipient or contractor's failure to comply with GOSR policy and procedure.

In order to minimize the amount of funds expended on a project that will not be implemented, projects that run into any of these barriers should be canceled as soon as it has become apparent that the subrecipient is no longer able to complete the project eligibly within the CDBG-DR grant deadlines. It is at GOSR's discretion to reprogram any funds allocated to canceled projects. GOSR works with subrecipients to review projects for their feasibility to meet the deadlines to help ensure projects that proceed will not be at risk of cancellation.

#### *Unresponsive Subrecipients*

When a subrecipient is unresponsive or unwilling to advance a project, it has agreed to advance, the Infrastructure Program may cancel the project.

The unresponsive subrecipient is given two notification attempts to respond to the Program and document why the project has not advanced and when the subrecipient will advance the project before the project is canceled. The Infrastructure Program Staff and Grant Manager must follow and document all efforts to notify the subrecipient. For each notification attempt, the Infrastructure Program Staff and Grant Manager must contact the subrecipient via email and certified mail.

## **5.5.14 Payment**

### **5.5.14.1 Subrecipient Payment**

Subrecipient payments are typically expended on a reimbursement-based payment process. "Reimbursement-based" means that project costs must be incurred by the subrecipient and documented as required by the terms of the **SRA** for payment of invoices as per the payment

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<sup>20</sup> Any projects that do not meet these requirements are not required to go through the NY Rising Infrastructure Program cancellation procedure. Any files saved to date are archived and the project is marked as canceled in the GSP.

terms in the **SRA**. For reimbursement-based payment, the subrecipient submits a **Request for Payment package**. GOSR reviews and approves the request. However, while the program is generally a reimbursement-based one, Subrecipients may request advances for work based on anticipated cash flow needs and capacity, by project, in consultation with GOSR.

#### **5.5.14.2 New York State Division of the Budget Payment**

This section discusses Non-Federal Match Payments which follow the Local Government and Critical Infrastructure Program implementation policies and procedures. GOSR reimburses the State General fund for costs incurred. This procedure is currently applied for the PA Match Program. In cases where match funds are combined with standalone CDBG-DR projects funded through the Local Government and Critical Infrastructure program, GOSR will follow the Local Government and Critical Infrastructure program procedures listed above. Currently, this includes projects such as the Bay Park Wastewater Treatment Plant. It is anticipated that this may also include work to be performed under the SCCRI in the Water and Wastewater program.

#### **5.5.14.3 Final Payment**

Program withholds final payment to Subrecipients until the satisfactory completion of project closeout.

#### **5.5.15 Project Closeout**

Project closeout is the process by which GOSR determines all requirements of the **SRA** between GOSR and the subrecipient for a specific project have been completed in accordance with the terms and conditions of the **SRA**. Project closeout is requested by the subrecipient when:

- All project expenses (including non-CDBG-DR funds) to be paid have been completed and payment requested;
- Approved work has been finished;
- Any other responsibilities detailed in the **SRA** have been fulfilled;
- All required documentation has been collected and uploaded to the GSP; and
- All monitoring or audit findings have been cleared.

Project closeout consists of:

- A **Request for Project Closeout** form, with applicable project documents attached, submitted to GOSR by the subrecipient;
- A **Project Closeout/Cancellation/Subrecipient Switch Checklist** completed and approved by the Program and other departments within GOSR; and
- A **Project Closeout Acceptance Letter from GOSR to the Subrecipient** is sent to the subrecipient.

For projects which use funding from the Local Government Critical Infrastructure program and have other federal disaster recovery dollars (such as FEMA PA or EPA) in the project, GOSR will follow the closeout procedures detailed in the Infrastructure Procedure Manual as well as

coordinate with the State lead agency so that the closeout of the Non-Federal Share funded portion of the program is also completed in a compliant manner for that program.

In addition, the project's status must be updated in HUD's DRGR system, and a final HUD quarterly narrative report must be submitted to reflect the project's status. For projects comprised of GOSR's CDBG-DR funds as well as other funds, project closeout occurs when all funds are spent.

It is at GOSR's discretion to reprogram any leftover funds allocated to closed-out projects.

#### **5.5.16 Subrecipient Closeout**

Subrecipient closeout is undertaken by the Program once all projects under the subrecipient's **SRA** are completed and closed out. Infrastructure and GOSR Program staff complete a **Subrecipient Closeout Package**. Subrecipient closeout activities include an on-site records audit by Infrastructure Program staff, a **Project Closeout Acceptance Letter from GOSR to the Subrecipient**, a closeout notice sent to GOSR staff, and subrecipient closeout in Elation.



## 6.0 Definitions and Acronyms

Table 12: Commonly used acronyms

<b>Acronym</b>	<b>Meaning</b>
<i>ABA</i>	Architectural Barriers Act of 1968
<i>ACS</i>	American Community Survey (conducted by the U.S. Census)
<i>ADA</i>	Americans with Disabilities Act of 1990
<i>A/E</i>	Architectural and Engineering
<i>AUD</i>	New York State Comptroller Annual Update/Financial Report
<i>AUGF</i>	Authority to Use Grant Funds
<i>BCA</i>	Benefit Cost Analysis
<i>BERA</i>	GOSR's Bureau of Environmental Review and Analysis
<i>CEQR</i>	City Environmental Quality Review
<i>CDBG</i>	Community Development Block Grant
<i>CDBG-DR</i>	Community Development Block Grant – Disaster Recovery
<i>CDR</i>	Cost Documentation Review
<i>COO</i>	Certificate of Occupancy
<i>CPP</i>	Citizen Participation Plan
<i>CR&amp;I</i>	GOSR Community Reconstruction and Infrastructure
<i>CRR</i>	Cost Reasonableness Review
<i>CWSRF</i>	EPA Clean Water State Revolving Fund
<i>DASNY</i>	The Dormitory Authority of the State of New York
<i>DBRA</i>	Davis-Bacon and Related Acts
<i>DCR</i>	GOSR Office of Diversity and Civil Rights
<i>DHS</i>	United States Department of Homeland Security
<i>DHSES</i>	New York State Division of Homeland Security and Emergency Services
<i>DOB</i>	Duplication of Benefits
<i>DOC</i>	U.S. Department of Commerce
<i>DoD</i>	U.S. Department of Defense
<i>DOE</i>	U.S. Department of Energy
<i>DOL</i>	Department of Labor
<i>DOT</i>	Department of Transportation
<i>DRGR</i>	Disaster Recovery Grant Reporting
<i>EA</i>	Environmental Assessment
<i>ECCCNYS</i>	Energy Conservation Construction Code of New York State 2010
<i>ECL</i>	Environmental Clearance Letter
<i>EEO</i>	Equal Employment Opportunity
<i>EMMIE</i>	Emergency Management Mission Integrated Environment
<i>EPA</i>	United States Environmental Protection Agency
<i>ERR</i>	Environmental Review Record
<i>FAL</i>	Force Account Labor
<i>FEMA</i>	Federal Emergency Management Agency

<i>FHA</i>	Fair Housing Act
<i>FHEO</i>	Fair Housing and Equal Opportunity
<i>FHWA-ER</i>	Federal Highway Administration – Emergency Relief
<i>FLSA</i>	Fair Labor Standard Acts of 1938
<i>FMP</i>	Floodplain Management Program
<i>FOIL</i>	Freedom of Information Law
<i>FRP</i>	Federal Review and Permitting
<i>GEF</i>	Greatest Extent Feasible
<i>GFE</i>	Good Faith Effort
<i>GOSR</i>	Governor’s Office of Storm Recovery
<i>GSA</i>	General Services Administration
<i>GSP</i>	GOSR Subrecipient Portal
<i>HCDA</i>	Housing and Community Development Act
<i>HCR</i>	Housing and Urban Development Act of 1968
<i>HHS</i>	U.S. Department of Health and Human Services
<i>HMGP</i>	FEMA Hazard Mitigation Grant Program
<i>HTFC</i>	New York State Housing Trust Fund Corporation
<i>HUD</i>	United States Department of Housing and Urban Development
<i>IA</i>	FEMA Individual Assistance
<i>IAD</i>	GOSR Internal Audit Department
<i>ICE</i>	Independent Cost Estimate
<i>LAP</i>	Language Assistance Plan
<i>LEP</i>	Limited English Proficiency
<i>LIPA</i>	Long Island Power Authority
<i>LMI</i>	Low- and Moderate- Income
<i>LMISD</i>	Low- and Moderate- Income Summary Data
<i>MBE</i>	Minority Business Enterprise
<i>MCD</i>	GOSR Monitoring and Compliance Department
<i>MOU</i>	Memorandum of Understanding
<i>M/WBE</i>	Minority and Women Business Enterprise
<i>NEPA</i>	National Environmental Policy Act
<i>NFIP</i>	National Flood Insurance Program
<i>NOFA</i>	Notice of Funding Availability
<i>NTP</i>	Notice to Proceed
<i>NYRCR</i>	New York Rising Community Reconstruction Program
<i>NYS</i>	New York State
<i>NYSDEC</i>	New York State Department of Environmental Conservation
<i>NYSERDA</i>	New York State Energy Research and Development Authority
<i>NYSOPRHP</i>	New York State Office of Parks, Recreation, and Historic Preservation
<i>NYSSROP</i>	New York State Storm Recovery Opportunities Portal
<i>OIG</i>	HUD Office of Inspector General
<i>OMB</i>	Office of Management and Budget
<i>PA</i>	FEMA Public Assistance

<i>PAAP</i>	Public Assistance Alternative Procedures Pilot Program
<i>PCA</i>	GOSR Procurement and Contract Administration
<i>PMA</i>	Project Management Agreement
<i>PWs</i>	Project Worksheets
<i>QA</i>	Quality Assurance
<i>QC</i>	Quality Control
<i>QPR</i>	Subrecipient Quarterly Progress Report
<i>RBD</i>	Rebuild by Design
<i>RFP</i>	Request for Proposals
<i>RFQ</i>	Request for Qualifications
<i>RSA</i>	GOSR Research and Strategic Analysis
<i>SBA</i>	Small Business Administration
<i>SCCRI</i>	Suffolk County Coastal Resiliency and Water Quality Improvement Initiative
<i>SD</i>	Substantially Damaged
<i>SEQRA</i>	State Environmental Quality Review Act
<i>SFHA</i>	Special Flood Hazard Area
<i>SI</i>	Substantially Improved
<i>SMLP</i>	EPA Storm Mitigation Loan Program
<i>SOP</i>	Standard Operation Procedure
<i>SRA</i>	Subrecipient Agreement
<i>SRIRC</i>	Sandy Regional Infrastructure Resilience Coordination Group
<i>SRO</i>	FEMA Sandy Recovery Office
<i>TA</i>	Technical Assistance
<i>TSA</i>	FEMA Transition Shelter Assistance Program
<i>UFAS</i>	Uniform Federal Accessibility Standards
<i>UGLG</i>	Units of General Local Government
<i>UN</i>	Urgent Need
<i>URA</i>	Uniform Relocation Assistance and Real Property Acquisition Act of 1970
<i>USACE</i>	U.S. Army Corps of Engineers
<i>VA</i>	U.S. Department of Veteran Affairs
<i>VRQ</i>	Vendor Responsibility Questionnaire
<i>WBE</i>	Women Owned Business Enterprise
<i>WCU</i>	GOSR Wage and Compliance Unit

## 6.1 Definitions

**100-Year Floodplain:** Also referred to as the ‘base flood.’ This term, adopted by the NFIP as the basis for mapping, insurance rating, and regulating new construction, is the floodplain that would be inundated in the event of a 100-year flood. The 100-year flood has a 1% chance of being equaled or exceeded during any given year.

**Applicant:** A homeowner, landlord, business or other entity who makes a formal **Application** for a GOSR Program.

**Benefit Cost Analysis (BCA):** The process of evaluating a business opportunity or decision based on its cost involved and possible profits.

**Benefit Cost Ratio (BCR):** An indicator to identify the relationship between cost and benefit used in a BCA.

**Change Orders:** Modifications to the Scope of Work required due to unforeseen circumstances.

**Community Development Block Grant (CDBG):** A federal program administered by HUD, which provides grant funds to local and State governments. The CDBG program works to ensure decent affordable housing, to provide services to the most vulnerable in our communities, and to create jobs through the expansion and retention of businesses.

**Community Development Block Grant Disaster Recovery (CDBG-DR):** Similar in many ways to the CDBG program, these federal funds are administered by HUD but are specifically dedicated to assist with disaster recovery in areas impacted presidentially declared events. The grant funds differ from the traditional CDBG program by providing added flexibility grantees to enact projects however all work must comply with HUD requirements.

**Cost Documentation Review (CDR):** A spreadsheet used to capture financial documentation associated with each PW.

**EPA Clean Water State Revolving Fund (CWSRF):** A Federal-State partnership that provides low- or no-interest rate financing to construct water quality protection projects.

**Contract for Deed** (also referred to as a Lease Purchase Agreement): Legal document that establishes items to be met in order for the deed to a piece of property to transfer from one person to another, usually in exchange for monthly payments until the purchase price has been paid.

**Covered Project:** A major infrastructure project with such projects defined as having a total cost of \$50 million or more (including at least \$10 million of CDBG-DR funds), or benefits multiple counties. Additionally, two or more related infrastructure projects that have a combined total cost of \$50 million or more (including at least \$10 million of CDBG-DR funds) must be designated as major infrastructure projects.

**Davis-Bacon Wage Requirements/Davis-Bacon and Related Acts (DBRA):** The DBRA require all contractors and subcontractors performing work on federal or District of Columbia construction contracts or federally assisted contracts in excess of \$2,000 to pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits for corresponding classes of laborers and mechanics employed on similar projects in the area. The prevailing wage rates and fringe benefits are determined by the Secretary of Labor for inclusion in covered contracts.

**United States Department of Homeland Security (DHS):** A department under the US federal government with the primary responsibility of protecting US territory (including from natural disasters).

**New York State Department of Homeland Security and Emergency Services (DHSES):** The NYS Division of Homeland Security that provides leadership, coordination, and support for all man-made and natural disasters.

**Department of Transportation (DOT):** DOT oversees the Federal Highway Administration Emergency Relief Program (FHWA-ER) and provides FHWA-ER funds to NYS through the State's DOT.

**Disaster Recovery Grant Reporting System (DRGR):** The DRGR system was developed by HUD's Office of Community Planning and Development for the CDBG Disaster Recovery program and other special appropriations. Data from the system is used by HUD staff to review activities funded under these programs and for required quarterly reports to Congress.

**Equal Employment Opportunity (EEO):** Prohibits federal contractors and federally-assisted construction contractors and subcontractors, who do over \$10,000 in government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identity or national origin.

**Emergency Management Mission Integrated Environment (EMMIE):** FEMA's recordkeeping system. EMMIE tracks grant applications and associated documents after each disaster declarations. This system manages all files related to the PWs, keeping applicants in compliance with FEMA regulations.

**Environmental Review Record:** A permanent set of files containing all documentation pertaining to the environmental review compliance procedures conducted and environmental clearance documents.

**Federal Emergency Management Agency (FEMA):** An agency of the DHS. The agency's primary purpose is to coordinate the response to a disaster that has occurred in the United States and that overwhelms the resources of local and State authorities.

**Federal Highway Administration – Emergency Relief (FHWA-ER):** The FHWA-ER program funds the repair or reconstruction of Federal-aid highways and roads on Federal lands

that have suffered serious damage as a result of natural disasters or catastrophic failures from an external cause.

**Final Inspection Report (FIR):** FIR is released by FEMA upon the completion the project and of the report submitted by State certifying that the Applicant's costs were incurred during the completion of eligible work.

**Fair Labor Standard Acts of 1938 (FLSA):** FLSA establishes the basic minimum wage levels for all work and requires the payment of overtime at the rate of at least one and one-half times the basic hourly rate of pay for hours worked in excess of 40 per week.

**Floodplain fringe:** The portion of the floodplain outside of the floodway, which is covered by floodwater during the 100-year Flood. The term, "flood-fringe" is generally associated with standing rather than flowing water. It is also that part of the floodplain wherein development is subject to a community's floodplain ordinance.

**Floodway:** (also known as the "regulatory Floodway") is the portion of the Floodplain effective in carrying flow where flood hazard is generally the greatest, and water velocity is the highest. In the Floodway, fill or other development is likely to divert flow and contribute to increased water depths during a flood. Ideally, Floodways should be undeveloped areas that can accommodate flood flows with minimal risk.

**Flood Zones:** The land areas identified by FEMA. Each flood zone describes that land area in terms of its risk of flooding. Everyone lives in a flood zone; it's just a question of whether you live in a low, moderate, or high risk area.

**Governor's Office of Storm Recovery (GOSR):** An office for maximizing the coordination of recovery and rebuilding efforts in storm-affected municipalities throughout NYS, which operates within HTFC.

**Grantee:** The term "grantee" refers to any jurisdiction receiving a direct award from HUD under the March 5, 2013 Federal Register Notice (FR-5696-N-01). The State of New York is identified as a grantee in the notice.

**Housing and Community Development Act (HCDA):** HCDA is a US federal law that authorizes funds to be "awarded directly to the State or unite of general local government as a grantee at the discretion of the Secretary of Housing and Urban Development".

**Housing Trust Fund Corporation (HTFC):** NYS agency through which Program funds are administered to Applicants and other sub-recipients.

**Department of Housing and Urban Development (HUD):** Federal department through which the Program funds are distributed to grantees.

**Limited English Proficiency (LEP):** A designation for persons that are unable to communicate effectively in English because their primary language is not English and they have not developed



fluency in the English language. A person with LEP may have difficulty speaking or reading English. An LEP person benefits from an interpreter who translates to and from the person's primary language. An LEP person may also need documents written in English translated into his or her primary language so that person can understand important documents related to health and human services.

**Low-to-Moderate Income (LMI):** Low to moderate income people are those having incomes not more than the "moderate-income" level (80% Area Median Family Income) set by the federal government for the HUD-assisted Housing Programs. This income standard changes from year to year and varies by household size, county and the metropolitan statistical area.

**Minority Business Enterprise (MBE):** A business that is owned and controlled (minimum of 51 % ownership) by a member of a minority group.

**Minority and Women-owned Business Enterprise (M/WBE):** A business that is owned and controlled (minimum of 51 % ownership) by a member of a minority group, or women.

**National Environmental Policy Act (NEPA):** Establishes a broad national framework for protecting the environment. NEPA's basic policy is to assure that all branches of government give proper consideration to the environment prior to undertaking any major federal action that could significantly affect the environment.

**National Flood Insurance Program (NFIP):** Created by Congress in 1968 to reduce future flood damage through floodplain management and to provide people with flood insurance through individual agents and insurance companies. FEMA manages the NFIP.

**Non-compliant with flood insurance requirement (NCOMP):** Records indicate that flood insurance on the damaged home has not been maintained as required. Failing to maintain flood insurance makes this home ineligible for assistance for damages to the property caused by flooding.

**Office of Community Renewal (OCR):** A department of HCR that oversees the New York Action Plan for disaster recovery programs.

**Owner:** A person or persons who are listed on the deed as owning that property.

**HUD Office of Inspector General (OIG):** OIG's mission is independent and objective reporting to the Secretary and the Congress for the purpose of bringing about positive change in the integrity, efficiency, and effectiveness of HUD operations. The Office of Inspector General became statutory with the signing of the Inspector General Act of 1978 (P.L. 95-452).

**Person with Disabilities:** [24 CFR 5.403]. A person with disabilities for purposes of program eligibility:

(1) Means a person who:

- (A) Has a disability, as defined in 42 U.S.C. 423; Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or
  - (B) In the case of an individual who has attained the age of 55 and is blind, inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he/she has previously engaged with some regularity and over a substantial period of time. For the purposes of this definition, the term blindness means central vision acuity of 20/200 or less in the better eye with use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for the purposes of this paragraph as having a central visual acuity of 20/200 or less.
- (ii) Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
- (A) Is expected to be of long-continued and indefinite duration,
  - (B) Substantially impedes his or her ability to live independently, and
  - (C) Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
- (iii) Has a developmental disability, as defined in Section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(8)).

**Public Assistance Alternative Procedures (PAAP) Pilot Program:** The Public Assistance Alternative Procedures Pilot Program implements the alternative procedures which allows FEMA to gather information on their effectiveness.

**Procurement Documentation Review (PDR):** PDR is designed to capture all relevant procurement documentation associated with PWs. This includes contracts, purchase orders, bid packages, and the classification of labor as contract, force account, or both.

**Property Owner:** Property Ownership is defined as holding a fee simple title as evidenced by a warranty deed, bargain for sale deed, or a quitclaim deed to the Property to be assisted. The deed must be recorded with the county, city, or appropriate local municipality.

**Project Worksheets (PWs):** Each PW contains the entire funded project and only items contained in a PW are eligible for FEMA reimbursement. At a minimum, files for each PW created by FEMA document the project, the location, the damage, the scope of work, the cost estimate, as well as back-up documentation.

**Quality Assurance (QA):** Planned and systematic production processes that provide confidence that the policy and procedures of the Program are being executed as planned.

**Quality Control (QC):** Testing to ensure that the policy and procedures of the Program are being executed as planned.

**Reconstruction:** The labor, materials, tools and other costs of rebuilding.

**Repair:** The labor, materials, tools, and other costs of improving buildings, other than minor or routine repairs.

**Request for Proposal (RFP):** A procurement document designed to solicit proposal services where cost is considered as a factor.

**Request for Qualifications (RFQ):** A procurement document designed to solicit a quote for services defined.

**Responsible Entity (RE):** Under 24 CFR Part 58, the term “responsible entity” (RE) means the grantee receiving CDBG assistance. The responsible entity must complete the environmental review process. The RE is responsible for ensuring compliance with NEPA and the Federal laws and authorities, for issuing the public notification, for submitting the RROF and certification, when required, and for ensuring the ERR is complete.

**Small Business Administration (SBA):** SBA’s Office of Disaster Assistance (ODA) provides affordable, timely and accessible financial assistance to Applicants, renters, and businesses. The SBA low-interest, long-term loans are the primary form of federal assistance for the repair and rebuilding of non-farm, private sector disaster losses.

**State Environmental Quality Review Act (SEQRA):** All State and Local Government agencies must comply with SEQRA responsibilities to consider environmental impacts equally with social and economic factors.

**Storm Mitigation Loan Program (SMLP):** The EPA’s SMLP provides financing to enhance the resiliency of water treatment facilities.

**Scope of Work (SOW):** The works to be performed or completed by the applicant. All FEMA PA projects considered for Non-Federal Share Local Match with CDBG-DR funds must have funding and a scope of work that is contained in an eligible and obligated PW.

**Slum and Blight:** “Blighted area” and “slum” mean an area in which at least 70% of the parcels are blighted parcels and those blighted parcels substantially impair or arrest the sound growth of the State or a political subdivision of the State, retard the provision of housing accommodations, constitute an economic or social liability, or are a menace to the public health, safety, morals, or welfare in their present condition and use.

**Subrogation:** The process by which duplicative assistance paid to the Applicant after receiving an award, is remitted to the Program in order to rectify a Duplication of Benefits.

**Trust:** A legal vehicle to hold property subject to certain duties and to protect it for another individual.

**Uniform Relocation Act (URA):** A federal law that establishes minimum standards for federally-funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms.

**U.S. Army Corps of Engineers (USACE):** A US federal agency for public engineering, design, and construction management.

**Urgent Need Objective:** Under the disaster recovery federal regulations, HUD has determined that an UN exists within the Presidentially Declared counties. An UN exists because existing conditions pose serious and immediate threats to the health/welfare of the community, the existing conditions are recent or recently became urgent (typically within 18 months), and the sub-grantee or State cannot finance the activities on its own because other funding sources are not available. All Applicants who cannot meet the LMI National Objective are placed into the UN category.

# Exhibit 1: Program Administrative Requirements and Cross-Cutting Federal Regulations

GOSR and its developers/subrecipients must adhere to all applicable State and federal laws, rules, and regulations. This section provides a summary of the significant and applicable federal regulations.

## Americans with Disabilities Act (ADA) and Section 504

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination based on disability in federally assisted Programs. This section provides that no otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving federal funding assistance. The ADA Act of 1990 (ADA) prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation. It also mandates the establishment of a telecommunications device for the deaf (TDD)/telephone relay services.<sup>21</sup> GOSR takes affirmative steps to ensure that people with disabilities have equal access to the programs offered by GOSR, and that any aid, benefit or services are delivered in the most integrated manner possible. Qualified persons with disabilities are informed of the availability of programs, services and activities, and GOSR's programs, activities or services are readily accessible to, and usable by, individuals with disabilities. GOSR also ensures that reasonable accommodations or changes to policies, practices, or procedures are made to guarantee people with disabilities equal access to services and programs. Additionally, all programs, services and activities are accessible, both structurally and administratively, to persons with disabilities. GOSR's mandate to conform to the requirements of ADA flows down to all subrecipients, vendors and developers.

Section 504 requires that, for all new construction of multifamily rental projects with 5 or more units and/or substantial alterations of multifamily rental projects with 15 or more units, a minimum of 5 percent of the dwelling units in the project (but not less than one unit) must be accessible to individuals with mobility impairments. An additional 2 percent of the dwelling units (but at a minimum, not less than one unit) must be accessible to individuals with sensory impairments (i.e., hearing or vision impairments). In buildings with 5 or more dwelling units and at least one elevator, all dwelling units and all public/common use areas are subject to Section 504 requirements. In buildings with 5 or more dwelling units and no elevator, all ground floor units and public and common use areas are subject to Section 504 requirements. In addition, Section 504 requires that federally funded new construction of non-housing facilities be designed and constructed to be readily accessible and usable by individuals with handicaps, and that federally funded alterations to existing non-housing facilities do so to the maximum extent feasible.

The Architectural Barriers Act of 1968 (ABA) requires that certain buildings financed with federal funds must be designed, constructed, or altered in accordance with standards that ensure accessibility for persons with physical disabilities. The ABA covers any building or facility

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<sup>21</sup> [http://www.ada.gov/2010\\_regs.htm](http://www.ada.gov/2010_regs.htm)  
September 9, 2021

financed in whole or in part with federal funds, except privately-owned residential structures. Covered buildings and facilities designed, constructed, or altered with CDBG funds are subject to the ABA and must comply with the Uniform Federal Accessibility Standards (UFAS).

## **Davis-Bacon Act and Related Acts (DBRA)**

The DBRA<sup>22</sup> requires all subrecipients, contractors and subcontractors funded in whole or in part with CDBG-DR financial assistance through GOSR for the construction, alteration, or repair of public buildings or public works valued at more than \$2,000, except residential properties with less than 8 units, to pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area. However, Davis-Bacon requirements do not apply to FAL. Davis-Bacon “labor standards clauses” must be included in covered contracts. In some cases, NYS Prevailing Wages and Davis-Bacon Prevailing Wages both apply. In such instances, the higher of the two prevails. Exceptions to DBRA include:

- Construction contracts of \$2,000 or less;
- Real property acquisition;
- A/E fees;
- Other services (such as legal, accounting, construction management);
- Other non-construction items (such as furniture, business licenses, real estate taxes);
- Rehabilitation of residential property designed for fewer than eight families; and
- Demolition and/or clearance activities, unless related to construction (demolition and clearance as independent functions are not considered construction).

Subrecipients must work with GOSR to obtain both federal and NYS prevailing wage decisions for each project. After the bids are received, GOSR will verify the eligibility of the contractor to participate in the program.

Additionally, GOSR must follow the reporting requirements per HUD and Department of Labor (DOL) regulations. This requirement also extends to GOSR subrecipients and contractors. The WCU within the MCD ensures that GOSR’s applicable programs and services are in compliance with DBRA through the submission of weekly payrolls, site visits, and interviews with laborers.

## **New York State Prevailing Wages**

In addition to DBRA applicability on GOSR construction projects, NYS prevailing wages may be applicable. Under NYS Labor Law<sup>23</sup>, contractors and subcontractors must pay the prevailing rate of wage and supplements (fringe benefits) to all workers under a public work contract. Employers must pay the prevailing wage rate set for the locality where the work is performed. Prevailing wage is the pay rate set by law for work on public work projects. This applies to all laborers, workers, or mechanics employed under a public work contract.

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<sup>22</sup> 40 U.S.C. 3141 *et seq.*

<sup>23</sup> Article 8 New York State Labor Law Section 220  
September 9, 2021



## Contract Work Hours & Safety Standards Act

The Contract Work Hours and Safety Standards Act <sup>24</sup> (CWHSSA) applies to Federally financed (in whole or in part) contracts over \$100,000, and provides that workers be paid at least one and one-half times their basic rate of pay for any time worked in excess of 40 hours weekly. In the event of violations, the contractor or subcontractor shall be liable to any affected employee for his unpaid wages and for liquidated damages computed at \$10.00 per day for each employee who worked overtime and was not paid overtime wages. Funds may be withheld from contractors and subcontractors to satisfy unpaid wages and liquidated damages.

## The Copeland "Anti-Kickback" Act

The Copeland Anti-Kickback Act<sup>25</sup> makes it a criminal offense for any person to induce, by any manner whatsoever, any person employed in the construction, reconstruction, completion, or repair of any public building, public work, or building, or work financed in whole or in part by Federal loans or grants, to give up any part of the compensation to which he/she is entitled under his/her contract of employment. The Act also provides for the submission of weekly certified payroll reports by all contractors and subcontractors.

## Equal Employment Opportunity (EEO)

[Executive Order 11246](#), EEO, as amended, prohibits federal contractors and federally assisted construction contractors and subcontractors who do over \$10,000 in government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identity or national origin. The Executive Order also requires Government contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment.<sup>26</sup> This regulation is adhered to within GOSR programs, and covered contractors and subcontractors must submit an EEO policy statement, staffing plan, and quarterly reports to document compliance.

## Fair Housing

The FHA requires all grantees, subrecipients, and/or developers funded in whole or in part with HUD financial assistance to certify that no person was excluded from participation in, denied the benefit of, or subjected to discrimination in any housing program or activity because of their race, color, religion, familial status, national origin, sex, or disability. The FHA contains requirements for the design of multifamily dwellings containing four or more attached units ready for first occupancy after March 13, 1991 to ensure accessibility to handicapped persons. Additionally, subrecipients, and/or developers funded in whole or in part by GOSR must also follow the NYS Human Rights Law, which covers all the same characteristics as the Federal FHA, but offers additional protections based upon age, sexual orientation, marital status, and military status.

GOSR enforces the FHA by ensuring that all grantees, subrecipients, and/or developers meet the applicable Fair Housing and Affirmative Marketing requirements and provide a marketing plan

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<sup>24</sup> 40 U.S.C. Section 327 et seq.

<sup>25</sup> 18 U.S.C. Section 874 as implemented in 29 Part 3

<sup>26</sup> 41 CFR Part 60.

September 9, 2021

and report on compliance in accordance with the FHA and the associated forms on HCR's website, where applicable. The Affirmative Marketing Plan must be in compliance with applicable Fair Housing Laws and demonstrate how the Applicant will affirmatively further fair housing throughout applicable GOSR disaster recovery programs. Additionally, GOSR and its Subrecipients maintain and report data on activity beneficiaries' and applicants' demographics for Fair Housing purposes, including race, ethnicity and head of household gender for direct-benefit activities' applicants and beneficiaries.

### **Fair Labor Standards Act of 1938, as Amended (FLSA)**

The [LSA<sup>27</sup>](#), establishes the basic minimum wage levels for all work and requires the payment of overtime at the rate of at least one and one-half times the basic hourly rate of pay for hours worked in excess of 40 per week for non-exempt workers.<sup>28</sup> These labor standards are applicable to the entire construction contract whether or not CDBG-DR funds finance only a portion of the project.

### **Limited English Proficiency (LEP)**

Federal Executive Order 13166 requires GOSR and all satellite offices, programs, subrecipients, contractors, subcontractors, and/or developers funded in whole or in part with CDBG-DR financial assistance to ensure fair and meaningful access to programs and services for families and individuals with LEP. GOSR ensures fair access through the implementation of a Language Assistance Plan (LAP) which includes non-English based outreach, translation of vital documents, free language assistance services, and staff training. GOSR's LEP Coordinator is responsible for coordinating all activities associated with the LAP, and the DCR monitors its implementation.

### **Minority and/or Women-Owned Business Enterprises (M/WBE)**

The Federal [Executive Order 12432](#) guidelines require selected federal agencies to promote and increase the utilization of MBEs. 2 CFR 200.321 requires the non-federal entity to take all necessary steps to ensure that all subrecipients, contractors, subcontractors, and/or developers funded in whole or in part with certain federal funds, including CDGB-DR, ensure that contracts and other economic opportunities are directed to small and minority firms, women-owned business enterprises (WBEs), and labor surplus area firms when possible.

NYS is a national leader in requiring that public entities utilize MBE and WBE firms. Per state goals identified by the administration, for projects and agreements executed prior to January 30, 2015, GOSR ensures compliance by requiring, as applicable, subrecipients and contractors to make best efforts to achieve an overall M/WBE participation goal of 20% of the entire contract value consisting of 10% for MBE and 10% for WBE.

For all projects and agreements executed after January 30, 2015, GOSR will be required to make best efforts to achieve an overall M/WBE participation goal of 30% of the entire contract, consisting of 15% for MBE and 15% for WBE, per the increase in utilization targets put in place by NYS. GOSR follows the relevant requirements of NYS Executive Law Article 15-A regarding M/WBE participation. The DCR verifies M/WBE certification and the MCD monitors to ensure

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<sup>27</sup> 29 U.S.C. 201.

<sup>28</sup> *Id.*

September 9, 2021

compliance with all reporting requirements. Where applicable, projects financed pursuant to an HCR competitive RFP must comply with the M/WBE participation goals outlined in the RFP.

For all applicable projects, the DCR works with applicants and subrecipients to provide TA, guidance, and one-on-one support required to implement Good Faith Efforts (GFEs) and meet applicable M/WBE thresholds.

### **Section 3**

Section 3 of the Housing and Urban Development Act of 1968 requires grantees, subrecipients, contractors, subcontractors, and/or developers funded in whole or in part by CDBG-DR funding, to the GEF, to extend hiring opportunities and contracts to Section 3 eligible residents and businesses, when a housing construction, housing rehabilitation or other public construction project or activity meets certain thresholds and criteria. Section 3 eligible residents are low- and very low-income persons, particularly those who live or reside in public or government-assisted housing. GOSR monitors contracts with subrecipients, contractors, subcontractors, and/or developers.

The DCR provides training, TA and one-on-one support for all projects, especially in terms of implementing best efforts to meet Section 3 goals. GOSR also monitors Section 3 goal attainment and provides additional on-the-ground support where required.

### **Residential Anti-Displacement**

All subrecipients and developers must follow GOSR's Residential Anti-Displacement policy.

### **Uniform Relocation Assistance and Real Property Acquisition Act**

CDBG-DR federal funds, administered by GOSR and disbursed to subrecipients and direct contractors and/or beneficiaries, are subject to the URA and/or Section 104(d) of the Housing and Community Development Act of 1974. The applicable federal regulations are located at 49 CFR Part 24 (URA), 24 CFR Part 42 (Section 104(d)), and in the Real Estate Acquisition and Relocation Policy and Guidance Handbook (HUD Handbook 1378).

Section 104(d) requires relocation assistance for lower-income individuals displaced as a result of the demolition or conversion of a lower-income dwelling and requires one-for-one replacement of lower-income units demolished or converted to other uses. The March 5, 2013 Federal Register Notice (FR-5696-N-01) waived the one-for-one replacement requirements at Section 104(d)(2)(A)(i)-(ii) and (d)(3) and 24 CFR 42.375 for units that meet the State's definition of "not suitable for rehabilitation," as established in the State's Action Plan.

Subrecipients or contractors must provide the following to households or entities (businesses, farms and non-profit organizations) that they displace:

- Required relocation notices, including General Information Notice, Notice of Non-displacement (for temporary relocations), and Eligibility Notice;
- Relocation advisory services;
- A minimum of a 90-day notice to vacate;

- Reimbursement for moving expenses, and in the case of non-residential displacement, reestablishment expenses; and
- Payments for added cost of renting or purchasing comparable replacement housing for residential displacements.

In cases involving the involuntary acquisition of real property, as defined by 49 CFR 24.101 (b), Subrecipients or contractors must provide the following benefits to the property owner:

- Appraise property before negotiations;
- Invite the property owner to accompany the appraiser during the property inspection
- Provide the owner with a written offer of just compensation and a summary of what is being acquired;
- Pay for property before possession; and
- Reimburse expenses resulting from the transfer of title such as recording fees, prepaid real estate taxes, or other expenses.

Section 414 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, as amended, 42 U.S.C. §5181 (“Stafford Act”) provides that:

*“Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the [Uniform Act] shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such [Uniform Act].”*

GOSR programs subject to the URA and Section 104(d) include the CDBG-DR programs. GOSR policies and procedures, NOFAs, applicant certifications and/or written agreements for funds subject to the URA and Section 104(d) shall refer to Federal and State rules, as appropriate.

## Real Property

If CDBG-DR funds are used to acquire real property, where applicable, GOSR ensures that the property is used for its intended (and approved) purpose. If the property is sold under the **SRA**, the sale proceeds will be treated as Program Income pursuant to Section 2.5.

This fairly straightforward proposition about the ownership, use, management, and disposition of property is complicated by two facts. First, the rules about property management and disposition differ slightly depending on whether a grantee is a public-sector grantee. (The rules are generally more explicit for governmental grantees). Second, the rules depend on the nature of the property. Real property (e.g., land, buildings) is treated differently than personal property (e.g., equipment, supplies, intangible property like copyrights). (Property Management and Disposition Regulations 24 CFR 570.503; all subrecipients (subs) 24 CFR 85.32; 85.34, govt. subs 24 CFR 84.32; 84.34, nonprofit subs).

The federal requirements relating to property are organized according to title (ownership), use, and disposition. In general, the property management system must provide for accurate records, the performance of regular inventories, adequate maintenance and control, and proper sales

procedures. Grantees must follow sales procedures that provide for competition, to the extent practicable, and that result in the highest possible return.

## **Financial Management**

Pursuant to Public Law 113-2, GOSR maintains and has in place proficient financial controls. The GOSR Internal Audit Department (IAD) exists to examine and evaluate the adequacy and effectiveness of the organization's governance and risk management. IAD plans and considers controls necessary to mitigate risks associated with program and administrative operations, internal and external reporting, and regulatory compliance. Risks of fraud, waste, and abuse are additionally considered throughout assignments.

MCD and IAD ensure that GOSR, as the grantee, as well as those administering CDBG-DR funds, continuously demonstrate conformity to financial management requirements as required by FR-5696-N-01. These requirements include, but are not limited to, areas covering: Financial Management; Advances; Internal Controls; Accuracy of Report Information; Program Income; Salaries and Wages; Indirect Costs; Lump Sum Drawdowns; and 2 CFR Part 200, Subpart F. GOSR's financial management system will be consistent with and in compliance with 24 CFR Parts 84, 85, and 570 (as applicable, and as superseded by 2 CFR 200), which ensures that GOSR funds are managed with high levels of accountability and transparency.

GOSR's Financial Management practices adhere to the following:

1. Internal controls are in place and adequate;
2. Documentation is available to support accounting record entries;
3. Financial reports and statements are complete, current, and reviewed periodically; and
4. Audits are conducted in a timely manner and in accordance with applicable standards.

## **Procurement Policy**

GOSR has established and adopted a procurement policy that meets State and federal requirements. The MCD and IAD ensure that GOSR adheres to its established policies.

## **Record Keeping, Retention, and File Management**

In accordance with HUD regulations, GOSR as a grantee and recipient of CDBG-DR funds follow the records retention as cited in 24 CFR 84.53 (as amended by 2 CFR 200.333), which includes financial records, supporting documents, statistical records, and all other pertinent records. GOSR must maintain records for a period of six years from the time of closeout of HUD's grant to the State. Further, GOSR established record keeping and retention requirements in its partner and contractor agreements in accordance with the guidelines established in 24 CFR 570.503(b)(2). For all partners, their retention of records shall be kept in accordance with 24 CFR 85.42, as modified by 24 CFR 570.502(a)(16), which requires for records to be maintained at least for a period of three years from the time of closeout of HUD's grant to the State or for six years after the closeout of a CDBG-DR funded project, whichever may be longer.

GOSR maintains records in accordance with recordkeeping requirements cited in 24 CFR 570.490(a)(1) (as amended by 2 CFR 200), in order to facilitate a review or audit by HUD.

Additionally, every partner and contractor is required to establish and maintain at least three major categories of records: Administrative, Financial, and Project Case files.

**Administrative records:** These are files and records that apply to the overall administration of the partner's CDBG-DR activities. They include the following:

- Personnel files; and
- Property management files.

**General program files:** Files relating to the subgrantee, partner's, or contractor's application to the grantee, the partner agreement, program policies and guidelines, correspondence with grantee and reports, etc.; and,

**Legal files:** Articles of incorporation, bylaws of the organization, tax status, board minutes, contracts and other agreements.

**Financial records:** These include the chart of accounts, a manual on accounting procedures, accounting journals and ledgers, source documentation (purchase orders, invoices, canceled checks, etc.), procurement files, bank account records, financial reports, audit files, etc.

**Project/case files:** These files document the activities undertaken with respect to specific individual beneficiaries, property owners, and/or properties.

## Reporting

As a recipient of CDBG-DR funds, GOSR established reporting requirements for all partners and contractors in their respective partner and contractor agreements and contracts in accordance with 24 CFR 570.503(b)(2). GOSR established its own reporting requirements in accordance with the provisions as found in 24 CFR 85.40(a) and (e) and 85.41(c) and (d) for (UGLGs or 24 CFR 84.51(a) for non-profit partners reporting requirements.

Generally speaking, GOSR monitors reporting requirements at five different program intervals:

1. At execution of agreements;
2. Monthly;
3. Quarterly;
4. Annually; and
5. As required.

Partners, contractors, subrecipients and developers submit the documents and reports to the State at the times indicated in the partner and grant agreement, loan agreement and/or contract agreement, and in the format prescribed by GOSR staff. Deviations from this requirement must be approved by GOSR staff.



## Record Retention

Record retention is a requirement of the Program. Records are maintained to document compliance with Program requirements and federal, State, and local regulations and to facilitate an audit review by HUD. GOSR will retain documents for six (6) years after closeout of the grant to the State, which ensures compliance with 24 CFR 570.490(d). For Subrecipients and contractors, GOSR requires retention of all financial records, supporting documents, statistical records, and all other pertinent records (i) for three (3) years from the time of closeout of HUD's grant to the State or for the period provided in the CDBG regulations at 24 CFR 570.487 (or other applicable laws and program requirements) and 24 CFR 570.488, or (ii) for six (6) years after the closeout of a CDBG-DR funded project pursuant to 42 USC 12707(a)(4) and New York Civil Practice Law and Rules § 213, whichever may be longer. Notwithstanding the above, if there is litigation, claims, audits, negotiations, or other actions that involve any of the records cited and that have started before the retention period, then all such records must be retained until completion of the actions and resolution of all issues, or the retention period, whichever occurs later.

GOSR seeks to ensure that:

- Compliance with all requirements concerning records and records management practices under federal and State regulations;
- That the organization has the records it needs to support and enhance ongoing business and citizen service, meet accountability requirements and community expectations;
- These records are managed efficiently and can be easily accessed and used for as long as they are required; and
- These records are stored as cost-effectively as possible and when no longer required they are disposed of in a timely and efficient manner based on HUD Handbook 2225.6, Records Disposition Schedules and HUD Handbook 2228.2.

## Access to Records

24 CFR 570.490 (as amended by 2 CFR 200.336) Recordkeeping requirements:

*“(c) Access to records.*

*(1) Representatives of HUD, the Inspector General, and the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, or property pertaining to the administration, receipt and use of CDBG funds and necessary to facilitate such reviews and audits.*

*(2) The State shall provide citizens with reasonable access to records regarding the past use of CDBG funds and ensure that units of general local government provide citizens with reasonable access to records regarding the past use of CDBG funds consistent with State or local requirements concerning the privacy of personal records.”*

The availability of records is subject to the exemptions to public disclosure set forth in section 87(2) of the NYS Public Officers Law. All Freedom of Information Law (FOIL) requests under the Public Officers Law must be made in writing to the Records Access Officer and will be processed in accordance with the procedures set forth therein.

## **Audit Trail**

All records defined by the organization as important are captured into GOSR's recordkeeping systems (e.g., SharePoint, Intelligrants, Tribuo, Elation, Imarc, GSP, etc.) so they can be appropriately managed.

All applicant data is secured in GOSR's management information system for a specified period of time in accordance with the current Record Retention and Disposition Schedule.

Recordkeeping, including scanning, uploading to GOSR's management information system, and filing of pertinent Program documentation retention policies are to provide a physical and/or an electronic record of activities so that documentation is accessible for audit purposes.

In order to protect non-public personal information, data security measures are in place. For example, hardware and software data security protocols such as the requirement for signed non-disclosure agreements prior to receipt of access credentials for Intelligrants. GOSR also requires that hard copy files containing non-public personal information are kept in locked file cabinets to ensure their physical security.

## **Conflicts of Interest and Confidentiality**

Conflicts of interest between subrecipients, program administrators, contractors, program staff, and other parties are strictly prohibited by federal law.

A "covered person" is an employee, agent, consultant, officer, or elected or appointed official of the State, or of a unit of general local government, or any designated public agencies, or subrecipients that are receiving CDBG-DR funds. Generally, no person who is a covered person, and who exercises or has exercised any functions or responsibilities with respect to CDBG-DR activities and who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

## **Conflicts of Interest**

The Program requires all Program staff to disclose any relationship with a subrecipient or contractor. State program staff, subrecipients, program administrators, and contractors who disclose such relationships are placed in roles where there is no opportunity for them to display favoritism or collude in order to financially or otherwise benefit themselves or the contractor, for example, a Customer Representative may not perform work on the application of family. For purposes of this regulation, "family" is defined to include spouse, parents, mother-in-law, father-in-law, grandparents, siblings, brother-in-law, sister-in-law, and children of an official covered under the CDBG conflict of interest regulations at 24 CFR 570.489(h) (as superseded by 2 CFR 200).

GOSR may consider granting an exception to the conflict of interest provisions per 24 CFR 570.489(h)(4) (as superseded by 2 CFR 200) if GOSR has determined that the subrecipient has

adequately and publicly addressed all of the concerns generated by the conflict of interest and that an exception would serve to further the purposes of Title I of the Housing and Community Development Act of 1974, as amended and the subrecipient has complied with the requirements listed in 24 CFR 570.489(h)(4)(i) and (ii) (as superseded by 2 CFR 200). GOSR considers whether the exception provides a significant cost benefit or an essential degree of expertise; whether the opportunity was provided for under open competitive bidding or negotiation; whether the person affected is a LMI person; whether the affected person has withdrawn from his or her functions or responsibilities; whether the interest or benefit was present before the affected person was in a position to benefit from the conflict of interest; or whether undue hardship results from failure to grant the exception.

## Confidentiality/Privacy

The Program is committed to protecting the privacy of all of our individual stakeholders, including the public and those individuals working on the Program.

Any personal information collected by the Program is covered by the Federal Privacy Act of 1974, the Personal Privacy Protection Act (NYS POL §95, et. seq.) and the State's Public Housing Law (see, PHL §159), among others. These laws provide for confidentiality, and restrict the disclosure of confidential and personal information. Unauthorized disclosure of such personal information may result in personal liability with civil and criminal penalties. The information collected may only be used for limited official purposes, including:

1. NY CDBG-DR Grant Program may use personal information throughout the award process to ensure compliance with program requirements, reduce errors and mitigate fraud and abuse
2. Independent Auditors, when hired by the Program to perform a financial or programmatic audit of the Program, for use in determining program compliance with all applicable HUD and federal regulations, including the Stafford Act, CDBG-DR requirements and State and Local law;
3. NY CDBG-DR Program may disclose personal information on an Applicant to those with official Power of Attorney for the Applicant or for whom the Applicant has provided written consent to do so; and/or
4. Organizations assisting the State in executing the CDBG-DR Program must comply with all Federal and State Law Enforcement and Auditing requests. This includes, but is not limited to, HUD, FEMA, FBI, NYS Office of the Comptroller, and the Office of the Inspector General.

## Recapture Policy

HTFC under tHCR through GOSR is responsible for ensuring that CDBG-DR funds awarded by HUD through New York Rising comply with all federal, state and local requirements.

In order to ensure that New York State is able to fulfill its contractual obligations to HUD, and that the subrecipients receiving CDBG-DR assistance are using the funds for their intended purpose, GOSR requires all subrecipients to sign **SRAs** stipulating each party's responsibilities

and the potential penalties if the subrecipient is found not to have fulfilled their obligations. Specifically, if the funds are not used for eligible activities, the money can be recaptured.

To monitor operations and to guard against fraud or unintentional violations of program requirements, GOSR has established quality control (QC) procedures. If a program violation is identified, the State recaptures funds in accordance with its recapture procedure.

## Exhibit 2: Table of Appendices

<i>Appendix Number</i>	<i>Appendix Name</i>
<i>1</i>	Program Administrative Requirements and Cross-cutting Regulations
<i>2</i>	GOSR Citizen Participation Plan
<i>3</i>	Disaster Impact Maps
<i>4</i>	HUD Davis Bacon Guidance Letter
<i>5</i>	National Objective Service Area Mapping Methodology
<i>6</i>	Environmental Review
<i>7</i>	GOSR Document Collection Letter for Hurricane Irene and Tropical Storm Lee Allocation Applicants to the FEMA Non-Federal Share Local Match Program
<i>8</i>	Non-Federal Share FEMA Public Assistance Local Match Program Documentation Collection letters to Applicants and Checklist templates
<i>9</i>	FEMA Public Assistance Non-Federal Share Local Match Program Procurement and Compliance Procedures
<i>10</i>	FEMA Public Assistance Non-Federal Share Local Match Program File Management
<i>11</i>	HMGP Global Match Strategy Approval Letters
<i>12</i>	NY Prize CDBG-DR Risk Assessment Tool
<i>13</i>	GOSR Local Government and Critical Infrastructure Pre-Application
<i>14</i>	GOSR Local Government and Critical Infrastructure Application

## **Appendix 1 – Program Administrative Requirements and Cross-cutting Regulations**

GOSR and its developers / subrecipients must adhere to all applicable State and federal laws, rules, and regulations. This section provides a summary of the significant and applicable federal regulations.

### **Americans with Disabilities Act (ADA) and Section 504**

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination based on disability in federally assisted Programs. This section provides that no otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving federal funding assistance. The ADA prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation. It also mandates the establishment of a telecommunications device for the deaf (TDD)/telephone relay services.<sup>15</sup> GOSR takes affirmative steps to ensure that people with disabilities have equal access to the programs offered by GOSR, and that any aid, benefit or services are delivered in the most integrated manner possible. Qualified persons with disabilities are informed of the availability of programs, services and activities, and GOSR's programs, activities or services are readily accessible to, and usable by, individuals with disabilities. GOSR also ensures that reasonable accommodations or changes to policies, practices, or procedures are made to guarantee people with disabilities equal access to services and programs. Additionally, all programs, services and activities are accessible, both structurally and administratively, to persons with disabilities. GOSR's mandate to conform to the requirements of ADA flows down to all subrecipients, vendors and developers.

Section 504 requires that, for all new construction of multifamily rental projects with 5 or more units and/or substantial alterations of multifamily rental projects with 15 or more units, a minimum of 5 percent of the dwelling units in the project (but not less than one unit) must be accessible to individuals with mobility impairments. An additional 2 percent of the dwelling units (but at a minimum, not less than one unit) must be accessible to individuals with sensory impairments (i.e., hearing or vision impairments). In buildings with 5 or more dwelling units and at least one elevator, all dwelling units and all public/common use areas are subject to Section 504 requirements. In buildings with 5 or more dwelling units and no elevator, all ground floor units and public and common use areas are subject to Section 504 requirements. In addition, Section 504 requires that federally funded new construction of non-housing facilities be designed and constructed to be readily accessible and usable by individuals with handicaps, and that federally funded alterations to existing non-housing facilities do so to the maximum extent feasible.

The Architectural Barriers Act of 1968 (ABA) requires that certain buildings financed with federal funds must be designed, constructed, or altered in accordance with standards that ensure accessibility for persons with physical disabilities. The ABA covers any building or facility financed in whole or in part with federal funds, except privately-owned residential structures. Covered buildings and facilities designed, constructed, or altered with CDBG funds are subject to the ABA and must comply with the Uniform Federal Accessibility Standards (UFAS).



## **Davis-Bacon Act and Related Acts (DBRA)**

The [Davis-Bacon Act<sup>16</sup> and Related Acts \(DBRA\)](#) requires all subrecipients, contractors and subcontractors funded in whole or in part with CDBG-DR financial assistance through GOSR for the construction, alteration, or repair of public buildings or public works valued at more than \$2,000, except residential properties with less than 8 units, to pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area. However, Davis-Bacon requirements do not apply to FAL. Davis-Bacon “labor standards clauses” must be included in covered contracts. In some cases, New York State Prevailing Wages and Davis-Bacon Prevailing Wages both apply. In such instances, the higher of the two prevails. Exceptions to DBRA include:

- Construction contracts of \$2,000 or less;
- Real property acquisition;
- Architectural and engineering (A/E) fees;
- Other services (such as legal, accounting, construction management);
- Other non-construction items (such as furniture, business licenses, real estate taxes);
- Rehabilitation of residential property designed for fewer than eight families; and
- Demolition and/or clearance activities, unless related to construction (demolition and clearance as independent functions are not considered construction).

Subrecipients must work with GOSR to obtain both federal and New York State prevailing wage decisions for each project. After the bids are received, GOSR will verify the eligibility of the contractor to participate in the program.

Additionally, GOSR must follow the reporting requirements per HUD and Department of Labor (DOL) regulations. This requirement also extends to GOSR subrecipients and contractors.

The WCU within the MCD ensures that GOSR’s applicable programs and services are in compliance with DBRA through the submission of weekly payrolls, site visits, and interviews with laborers.

## **New York State Prevailing Wages**

In addition to DBRA applicability on GOSR construction projects, New York State prevailing wages may be applicable. Under New York State Labor Law<sup>17</sup>, contractors and subcontractors must pay the prevailing rate of wage and supplements (fringe benefits) to all workers under a public work contract. Employers must pay the prevailing wage rate set for the locality where the work is performed. Prevailing wage is the pay rate set by law for work on public work projects. This applies to all laborers, workers or mechanics employed under a public work contract.

## **Contract Work Hours & Safety Standards Act**

The Contract Work Hours and Safety Standards Act<sup>18</sup> (CWHSSA) applies to Federally financed (in whole or in part) contracts over \$100,000, and provides that workers be paid at least one and one-half times their basic rate of pay for any time worked in excess of 40 hours weekly. In the event of violations, the contractor or subcontractor shall be liable to any affected employee for his

unpaid wages and for liquidated damages computed at \$10.00 per day for each employee who worked overtime and was not paid overtime wages. Funds may be withheld from contractors and subcontractors to satisfy unpaid wages and liquidated damages.

## **The Copeland "Anti-Kickback" Act**

The Copeland Anti-Kickback Act<sup>19</sup> makes it a criminal offense for any person to induce, by any manner whatsoever, any person employed in the construction, reconstruction, completion, or repair of any public building, public work, or building, or work financed in whole or in part by Federal loans or grants, to give up any part of the compensation to which he/she is entitled under his/her contract of employment. The Act also provides for the submission of weekly certified payroll reports by all contractors and subcontractors.

## **Equal Employment Opportunity (EEO)**

[Executive Order 11246](#), Equal Employment Opportunity (EEO), as amended, prohibits federal contractors and federally assisted construction contractors and subcontractors who do over \$10,000 in government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identity or national origin. The Executive Order also requires government contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment.<sup>20</sup> This regulation is adhered to within GOSR programs, and covered contractors and subcontractors must submit an EEO policy statement, staffing plan, and quarterly reports to document compliance.

## **Fair Housing**

The Fair Housing Act requires all grantees, subrecipients, and/or developers funded in whole or in part with HUD financial assistance to certify that no person was excluded from participation in, denied the benefit of, or subjected to discrimination in any housing program or activity because of their race, color, religion, familial status, national origin, sex, or disability. The Fair Housing Act contains requirements for the design of multifamily dwellings containing four or more attached units ready for first occupancy after March 13, 1991 to ensure accessibility to handicapped persons. Additionally, subrecipients, and/or developers funded in whole or in part by GOSR must also follow the New York State Human Rights Law, which covers all the same characteristics as the Federal Fair Housing Act, but offers additional protections based upon age, sexual orientation, marital status, and military status.

GOSR enforces the Fair Housing Act by ensuring that all grantees, subrecipients, and/or developers meet the applicable Fair Housing and Affirmative Marketing requirements and provide a marketing plan and report on compliance in accordance with the Fair Housing Act and the associated forms on HCR's website, where applicable. The Affirmative Marketing Plan must be in compliance with applicable Fair Housing Laws and demonstrate how the Applicant will affirmatively further fair housing throughout applicable GOSR disaster recovery programs. Additionally, GOSR and its Subrecipients maintain and report data on activity beneficiaries' and applicants' demographics for Fair Housing purposes, including race, ethnicity and head of household gender for direct-benefit activities' applicants and beneficiaries.

## **Fair Labor Standards Act of 1938, as Amended (FLSA)**

September 9, 2021

The Fair Labor Standards Act of 1938<sup>21</sup>, as amended (FLSA) establishes the basic minimum wage levels for all work and requires the payment of overtime at the rate of at least one and one-half times the basic hourly rate of pay for hours worked in excess of 40 per week for non-exempt workers.<sup>22</sup> These labor standards are applicable to the entire construction contract whether or not CDBG-DR funds finance only a portion of the project.

### **Limited English Proficiency (LEP)**

[Federal Executive Order 131661](#) requires GOSR and all satellite offices, programs, subrecipients, contractors, subcontractors, and/or developers funded in whole or in part with CDBG-DR financial assistance to ensure fair and meaningful access to programs and services for families and individuals with LEP. GOSR ensures fair access through the implementation of a Language Assistance Plan (LAP) which includes non-English based outreach, translation of vital documents, free language assistance services, and staff training. GOSR's LEP Coordinator is responsible for coordinating all activities associated with the LAP, and the DCR monitors its implementation.

### **Minority- and/or Women-Owned Business Enterprises (M/WBE)**

The Federal [Executive Order 12432](#) guidelines require selected federal agencies to promote and increase the utilization of MBEs. 2 CFR 200.321 requires the non-federal entity to take all necessary steps to ensure that all subrecipients, contractors, subcontractors, and/or developers funded in whole or in part with certain federal funds, including CDBG-DR, ensure that contracts and other economic opportunities are directed to small and minority firms, women-owned business enterprises (WBEs), and labor surplus area firms when possible.

New York State is a national leader in requiring that public entities utilize MBE and WBE firms. Per state goals identified by the administration, for projects and agreements executed prior to January 30, 2015, GOSR ensures compliance by requiring, as applicable, subrecipients and contractors to make best efforts to achieve an overall M/WBE participation goal of 20% of the entire contract value consisting of 10% for MBE and 10% for WBE.

For all projects and agreements executed after January 30, 2015, GOSR will be required to make best efforts to achieve an overall M/WBE participation goal of 30% of the entire contract, consisting of 15% for MBE and 15% for WBE, per the increase in utilization targets put in place by New York State. GOSR follows the relevant requirements of NYS Executive Law Article 15-A regarding M/WBE participation. The DCR verifies M/WBE certification and the MCD monitors to ensure compliance with all reporting requirements. Where applicable, projects financed pursuant to an HCR competitive Request for Proposal (RFP) must comply with the M/WBE participation goals outlined in the RFP.

For all applicable projects, the DCR works with applicants and subrecipients to provide TA, guidance, and one-on-one support required to implement GFEs and meet applicable M/WBE thresholds.

## **Section 3**

Section 3 of the Housing and Urban Development Act of 1968 requires grantees, subrecipients, contractors, subcontractors, and/or developers funded in whole or in part by CDBG-DR funding, to the GEF, to extend hiring opportunities and contracts to Section 3 eligible residents and

businesses, when a housing construction, housing rehabilitation or other public construction project or activity meets certain thresholds and criteria. Section 3 eligible residents are low- and very low-income persons, particularly those who live or reside in public or government-assisted housing. GOSR monitors contracts with subrecipients, contractors, subcontractors, and/or developers.

The DCR provides training, TA and one-on-one support for all projects, especially in terms of implementing best efforts to meet Section 3 goals. GOSR also monitors Section 3 goal attainment and provides additional on-the-ground support where required.

## **Residential Anti-Displacement**

All subrecipients and developers must follow GOSR's Residential Anti-Displacement policy.

## **Uniform Relocation Assistance and Real Property Acquisition Act**

CDBG-DR federal funds, administered by GOSR and disbursed to subrecipients and direct contractors and/or beneficiaries, are subject to the URA, as amended and/or Section 104(d) of the Housing and Community Development Act of 1974. The applicable federal regulations are located at 49 CFR Part 24 (URA), 24 CFR Part 42 (Section 104(d)), and in the Real Estate Acquisition and Relocation Policy and Guidance Handbook (HUD Handbook 1378).

Section 104(d) requires relocation assistance for lower-income individuals displaced as a result of the demolition or conversion of a lower-income dwelling and requires one-for-one replacement of lower-income units demolished or converted to other uses. The March 5, 2013 FRN (FR-5696-N-01) waived the one-for-one replacement requirements at Section 104(d)(2)(A)(i)-(ii) and (d)(3) and 24 CFR 42.375 for units that meet the State's definition of "not suitable for rehabilitation," as established in the State's Action Plan.

Subrecipients or contractors must provide the following to households or entities (businesses, farms and non-profit organizations) that they displace:

- Required relocation notices, including General Information Notice, Notice of Non-displacement (for temporary relocations), and Eligibility Notice;
- Relocation advisory services;
- A minimum of 90 day notice to vacate;
- Reimbursement for moving expenses, and in the case of non-residential displacement, reestablishment expenses; and
- Payments for added cost of renting or purchasing comparable replacement housing for residential displacements.

In cases involving the involuntary acquisition of real property, as defined by 49 CFR 24.101 (b), Subrecipients or contractors must provide the following benefits to the property owner:

- Appraise property before negotiations
- Invite the property owner to accompany the appraiser during the property inspection

- Provide the owner with a written offer of just compensation and a summary of what is being acquired
- Pay for property before possession
- Reimburse expenses resulting from the transfer of title such as recording fees, prepaid real estate taxes, or other expenses.

Section 414 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, as amended, 42 U.S.C. §5181 (“Stafford Act”) provides that:

*“Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the [Uniform Act] shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such [Uniform Act].”*

GOSR programs subject to the URA and Section 104(d) include the CDBG-DR programs. GOSR policies and procedures, NOFAs, applicant certifications and/or written agreements for funds subject to the URA and Section 104(d) shall refer to Federal and State rules, as appropriate.

## Real Property

If CDBG-DR funds are used to acquire real property, where applicable, GOSR ensures that the property is used for its intended (and approved) purpose. If the property is sold under the SRA, the sale proceeds will be treated as Program Income pursuant to Section 3.13.7.

This fairly straightforward proposition about the ownership, use, management, and disposition of property is complicated by two facts. First, the rules about property management and disposition differ slightly depending on whether a grantee is a public-sector grantee. (The rules are generally more explicit for governmental grantees). Second, the rules depend on the nature of the property. Real property (e.g., land, buildings) is treated differently than personal property (e.g., equipment, supplies, intangible property like copyrights). (Property Management and Disposition Regulations 24 CFR 570.503; all subrecipients (subs) 24 CFR 85.32; 85.34, govt. subs 24 CFR 84.32; 84.34, nonprofit subs).

The federal requirements relating to property are organized according to title (ownership), use, and disposition. In general, the property management system must provide for accurate records, the performance of regular inventories, adequate maintenance and control, and proper sales procedures. Grantees must follow sales procedures that provide for competition, to the extent practicable, and that result in the highest possible return.

## Financial Management

Pursuant to Public Law 113-2, GOSR maintains and has in place proficient financial controls. The GOSR Internal Audit Department (IAD) exists to examine and evaluate the adequacy and effectiveness of the organization’s governance and risk management. IAD plans and considers controls necessary to mitigate risks associated with program and administrative operations, internal and external reporting, and regulatory compliance. Risks of fraud, waste, and abuse are additionally considered throughout assignments.

MCD and IAD ensure that GOSR, as the grantee, as well as those administering CDBG-DR funds, continuously demonstrate conformity to financial management requirements as required by FR-5696-N-01. These requirements include, but are not limited to, areas covering: Financial Management; Advances; Internal Controls; Accuracy of Report Information; Program Income; Salaries and Wages; Indirect Costs; Lump Sum Drawdowns; and 2 CFR Part 200, Subpart F. GOSR's financial management system will be consistent with and in compliance with 24 CFR Parts 84, 85, and 570 (as applicable, and as superseded by 2 CFR 200), which ensures that GOSR funds are managed with high levels of accountability and transparency.

GOSR's Financial Management practices adhere to the following:

1. Internal controls are in place and adequate;
2. Documentation is available to support accounting record entries;
3. Financial reports and statements are complete, current, and reviewed periodically; and
4. Audits are conducted in a timely manner and in accordance with applicable standards.

## Procurement Policy

GOSR has established and adopted a procurement policy that meets State and federal requirements. The MCD and IAD ensure that GOSR adheres to its established policies.

## Record Keeping, Retention, and File Management

In accordance with HUD regulations, GOSR as a grantee and recipient of CDBG-DR funds follow the records retention as cited in 24 CFR 84.53 (as amended by 2 CFR 200.333), which includes financial records, supporting documents, statistical records, and all other pertinent records. GOSR must maintain records for a period of six years from the time of closeout of HUD's grant to the State. Further, GOSR established record keeping and retention requirements in its subrecipient and contractor agreements in accordance with the guidelines established in 24 CFR 570.503(b)(2). For all subrecipients and developers, their retention of records shall be kept in accordance with 24 CFR 85.42, as modified by 24 CFR 570.502(a)(7), which requires for records to be maintained at least for a period of three years from the time of closeout of HUD's grant to the State or for six years after the closeout of a CDBG-DR funded project, whichever may be longer. GOSR maintains records in accordance with recordkeeping requirements cited in 24 CFR 570.490(a)(1) (as amended by 2 CFR 200), in order to facilitate a review or audit by HUD. Additionally, every subrecipient and contractor is required to establish and maintain at least three major categories of records: Administrative, Financial, and Project Case files.

**Administrative records:** These are files and records that apply to the overall administration of the subrecipient's CDBG-DR activities. They include the following:

- Personnel files;
- Property management files;
- General program files: Files relating to the subgrantee, partner's, or contractor's application to the grantee, the partner agreement, program policies and guidelines, correspondence with grantee and reports, etc.; and,



- Legal files: Articles of incorporation, bylaws of the organization, tax status, board minutes, contracts and other agreements.

**Financial records:** These include the chart of accounts, a manual on accounting procedures, accounting journals and ledgers, source documentation (purchase orders, invoices, canceled checks, etc.), procurement files, bank account records, financial reports, audit files, etc.

**Project/case files:** These files document the activities undertaken with respect to specific individual beneficiaries, property owners, and/or properties.

## Reporting

As a recipient of CDBG-DR funds, GOSR established reporting requirements for all subrecipients and contractors in their respective subrecipient and contractor agreements and contracts in accordance with 24 CFR 570.503(b)(2). GOSR established its own reporting requirements in accordance with the provisions as found in 24 CFR 85.40(a) and (e) and 85.41(c) and (d) for Units of General Local Government (UGLGs) or 24 CFR 84.51(a) for non-profit subrecipients reporting requirements.

Generally speaking, GOSR monitors reporting requirements at five different program intervals:

1. At execution of agreements;
2. Monthly;
3. Quarterly;
4. Annually; and
5. As required.

Subrecipients, contractors, and developers submit the documents and reports to the State at the times indicated in the subrecipient and grant agreement, loan agreement and/or contract agreement, and in the format prescribed by GOSR staff. Deviations from this requirement must be approved by GOSR staff.

## Record Retention

Record retention is a requirement of the Program. Records are maintained to document compliance with Program requirements and federal, State, and local regulations and to facilitate an audit review by HUD. GOSR will retain documents for six (6) years after closeout of the grant to the State, which ensures compliance with 24 CFR 570.490(d). For subrecipients, GOSR requires retention of all financial records, supporting documents, statistical records, and all other pertinent records (i) for three (3) years from the time of closeout of HUD's grant to the State or for the period provided in the CDBG regulations at 24 CFR 570.487 (or other applicable laws and program requirements) and 24 CFR 570.488, or (ii) for six (6) years after the closeout of a CDBG-DR funded project pursuant to 42 USC 12707(a)(4) and New York Civil Practice Law and Rules § 213, whichever may be longer. Notwithstanding the above, if there is litigation, claims, audits, negotiations, or other actions that involve any of the records cited and that have started before the retention period, then all such records must be retained until completion of the actions and resolution of all issues, or the retention period, whichever occurs later.

GOSR seeks to ensure that:

- Compliance with all requirements concerning records and records management practices under federal and State regulations;
- That the organization has the records it needs to support and enhance ongoing business and citizen service, meet accountability requirements and community expectations;
- These records are managed efficiently and can be easily accessed and used for as long as they are required; and
- These records are stored as cost-effectively as possible and when no longer required they are disposed of in a timely and efficient manner based on HUD Handbook 2225.6, Records Disposition Schedules and HUD Handbook 2228.2.

## Access to Records

24 CFR 570.490 (as amended by 2 CFR 200.336) Recordkeeping requirements:

*“(c) Access to records.*

*(1) Representatives of HUD, the Inspector General, and the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, or property pertaining to the administration, receipt and use of CDBG funds and necessary to facilitate such reviews and audits.*

*(2) The State shall provide citizens with reasonable access to records regarding the past use of CDBG funds and ensure that units of general local government provide citizens with reasonable access to records regarding the past use of CDBG funds consistent with State or local requirements concerning the privacy of personal records.”*

The availability of records is subject to the exemptions to public disclosure set forth in section 87(2) of the New York State Public Officers Law. All Freedom of Information Law (FOIL) requests under the Public Officers Law must be made in writing to the Records Access Officer and will be processed in accordance with the procedures set forth therein.

## Audit Trail

All records defined by the organization as important are captured into GOSR’s recordkeeping systems (e.g., SharePoint, Intelligrants, Tribuo, Elation, Imarc, GSP, etc.) so they can be appropriately managed.

Elation Systems, Inc. is a provider of diversity and labor compliance reporting and management services. GOSR has adopted this cloud-based compliance management system to help all its contractors and subrecipients receiving Federal funds to adhere to Labor Compliance (Davis-Bacon), M/WBE and Section 3 Federal reporting requirements. The Elation Systems application will serve as the system of record for all M/WBE, Section 3, Davis-Bacon, and EEO report submissions from GOSR subrecipients and direct contractors.

Recordkeeping, including scanning, uploading to GOSR's management information system, and filing of pertinent Program documentation retention policies are to provide a physical and/or electronic record of activities so that documentation is accessible for audit purposes.

GOSR Organizational Systems and Performance, working in collaboration with NYS ITS, has instituted several measures to protect non-public personal information and other forms of data. These measures apply to all in-house systems and any data that is being stored in GOSR's data warehouse. For example, the use of encryption of sensitive data fields (i.e. SSN, Bank Account and routing information) in the data warehouse. Access to this data is granted only to those assigned a 'personally identifiable information' user access role, and this role is granted upon request from authorized GOSR personnel.

GOSR also manages a monthly access validation process, the User Access Protocol. It requires all GOSR direct vendors and their subcontractors to review the Master User List for their organization and confirm that the list accurately and completely reflects all of their employees working on GOSR-related activities that should have access to GOSR systems. Once a quarter, as an additional security check, this list is checked against GOSR's active Directory and the library of signed non-disclosure agreements that are required prior to receipt of access credentials to GOSR systems.

GOSR also requires that active, office use, hard copy files containing non-public personal information be kept in locked file cabinets to ensure their physical security.

## **Conflicts of Interest and Confidentiality**

Conflicts of interest between subrecipients, program administrators, contractors, program staff, and other parties are strictly prohibited by federal law.

A "covered person" is an employee, agent, consultant, officer, or elected or appointed official of the State, or of a unit of general local government, or any designated public agencies, or subrecipients that are receiving CDBG-DR funds. Generally, no person who is a covered person, and who exercises or has exercised any functions or responsibilities with respect to CDBG-DR activities and who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

### **Conflicts of Interest**

The Program requires all Program staff to disclose any relationship with a subrecipient or contractor. State program staff, subrecipients, program administrators, and contractors who disclose such relationships are placed in roles where there is no opportunity for them to display favoritism or collude in order to financially or otherwise benefit themselves or the contractor, for example, a Customer Representative may not perform work on the application of family. For purposes of this regulation, "family" is defined to include spouse, parents, mother-in-law, father-in-law, grandparents, siblings, brother-in-law, sister-in-law, and children of an official covered

under the CDBG conflict of interest regulations at 24 CFR 570.489(h) (as superseded by 2 CFR 200).

GOSR may consider granting an exception to the conflict of interest provisions per 24 CFR 570.489(h)(4) (as superseded by 2 CFR 200) if GOSR has determined that the subrecipient has adequately and publicly addressed all of the concerns generated by the conflict of interest and that an exception would serve to further the purposes of Title I of the Housing and Community Development Act of 1974, as amended and the subrecipient has complied with the requirements listed in 24 CFR 570.489(h)(4)(i) and (ii) (as superseded by 2 CFR 200). GOSR considers whether the exception provides a significant cost benefit or an essential degree of expertise; whether the opportunity was provided for under open competitive bidding or negotiation; whether the person affected is a LMI person; whether the affected person has withdrawn from his or her functions or responsibilities; whether the interest or benefit was present before the affected person was in a position to benefit from the conflict of interest; or whether undue hardship results from failure to grant the exception.

## **Confidentiality/Privacy**

The Program is committed to protecting the privacy of all of our individual stakeholders, including the public and those individuals working on the Program.

Any personal information collected by the Program is covered by the Federal Privacy Act of 1974, the Personal Privacy Protection Act (NYS POL §95, et. seq.) and the State's Public Housing Law (see, PHL §159), among others. These laws provide for confidentiality, and restrict the disclosure of confidential and personal information. Unauthorized disclosure of such personal information may result in personal liability with civil and criminal penalties. The information collected may only be used for limited official purposes, including:

1. NY CDBG-DR Grant Program may use personal information throughout the award process to ensure compliance with program requirements, reduce errors and mitigate fraud and abuse.
2. Independent Auditors, when hired by the Program to perform a financial or programmatic audit of the Program, for use in determining program compliance with all applicable HUD and federal regulations, including the Stafford Act, CDBG-DR requirements and State and Local law.
3. NY CDBG-DR Program may disclose personal information on an Applicant to those with official Power of Attorney for the Applicant or for whom the Applicant has provided written consent to do so.
4. Organizations assisting the State in executing the CDBG-DR Program must comply with all Federal and State Law Enforcement and Auditing requests. This includes, but is not limited to, HUD, FEMA, FBI, NYS Office of the Comptroller, and the Office of the Inspector General.

## **Recapture Policy**

HTFC, under the Division of HCR through GOSR is responsible for ensuring that CDBG-DR funds awarded by HUD through New York Rising comply with all federal, state and local requirements.

In order to ensure that New York State is able to fulfill its contractual obligations to HUD, and that the subrecipients receiving CDBG-DR assistance are using the funds for their intended purpose, GOSR requires all subrecipients to sign SRA stipulating each party's responsibilities and the potential penalties if the subrecipient is found not to have fulfilled their obligations. Specifically, if the funds are not used for eligible activities, the money can be recaptured.

To monitor operations and to guard against fraud or unintentional violations of program requirements, GOSR has established quality control procedures. If a program violation is identified, the State recaptures funds in accordance with its recapture procedure.

## **Appendix 2 – Citizen Participation Plan**

### **Citizen Participation Plan Community Development Block Grant Disaster Recovery Hurricane Irene, Tropical Storm Lee, & Superstorm Sandy**

The primary goal of the New York Citizen Participation Plan is to provide all New York citizens with an opportunity to participate in the planning, implementation, and assessment of the State's CDBG-DR Sandy recovery program(s). The Plan sets forth policies and procedures for citizen participation, which are designed to maximize the opportunity for citizen involvement in the community redevelopment process. New York State developed the Citizen Participation Plan to meet the requirements of the CDBG Disaster Recovery (CDBG-DR) funding for Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee. The Plan reflects the alternative requirements as specified by the U.S. Department of Housing and Urban Development (HUD) in the Federal Register (FR-5696-N-01), Federal Register (FR-5696-N-06), Federal Register (FR-5696-N-11), and notice of specific waivers.

The State will ensure that any UGLG or sub-recipients who receive funds will have a Citizen Participation Plan that meets the CDBG-DR regulations and takes into consideration the waivers and alternatives made available under CDBG-DR funding.

In order to facilitate citizen participation requirements and to maximize citizen interaction in the development of the New York Disaster Recovery Action Plan, substantial amendments to the Action Plan, and the Quarterly Performance Reports (QPR), the State has laid out targeted actions to encourage participation and allow equal access to information about programs by all citizens, including LMI persons, persons with disabilities, the elderly population, persons receiving Disaster Housing Assistance Program (DHAP) funding, and persons with LEP.

#### **Public Outreach**

GOSR is committed to ensuring that all populations impacted by the storms are aware of the programs available to assist in the recovery from Hurricane Irene, Tropical Storm Lee, and Superstorm Sandy. Through in person meetings, outreach events, online and traditional media, GOSR has publicized programs and conducted outreach efforts throughout the storm impacted areas. In addition, the Governor initiated the NYRCR Program, a grass-roots community driven process that engages the public as a key stakeholder in the planning and rebuilding process. Through 61 cross-jurisdictional Planning Committees representing 119 communities, the NYRCR stakeholders helped to inform their communities about the available recovery programs as they came online.

#### **Programmatic Outreach**

Through the NYRCR Program, there have been over 650 Planning Committee meetings to construct a vision statement; to conduct an inventory of critical assets and an assessment of risks; and then ultimately to craft the strategies, and proposed projects or actions to address these risks. All meetings were open to the public and were publicized by media advisories, flyers, and



posters hung in public buildings; radio announcements; and through social media. Where necessary, meetings were advertised in various languages to ensure the immigrant population was informed. Translators were also present at meetings so that information was clearly understood. For the hearing impaired, sign language interpreters were also available.

More than 240 Public Engagement Events attracted thousands of community members, who provided feedback on the NYRCR planning process and proposals and made additional suggestions. Planning Committees members were instrumental in representing communities that are traditionally underrepresented in disaster recovery, from engaging immigrant populations to working with high school students. Committee members made presentations at senior housing complexes, religious gatherings, schools, and at Chambers of Commerce.

For the Small Business program, GOSR worked in coordination with the Empire State Development Corporation (ESD) as well as its sub-recipient, SBDC to create a multi-pronged approach to reach out to more than 3,000 businesses in the impacted communities has included paid advertising, door-to-door visits, press releases and other public relations efforts, and collaboration with various constituents and community organizations.

For the NY Rising Homeowner Program, early on the State partnered with the Long Island Housing Partners to target community outreach including but not limited to, persons with disabilities and other special needs, and senior households, with a focus on low- and moderate- income minority communities; outreach to and coordination with civic associations, religious and advocacy groups (racial equity), social service agencies, emergency aid not-for profits, educational institutions, and outreach to residences impacted by the disaster.

The State's vendors on the project also held numerous meetings to inform the public about the availability of grants for home repairs. This outreach consisted of a variety of methods: media announcements, online updates on the Storm Recovery website and through Storm Recovery profiles on social media platforms including Facebook, Twitter, and Instagram, community meetings, and partnerships with sub-recipients. Additionally, staff frequently made presentations to community groups, specifically in Long Island, to provide updated program information. A similar effort has been conducted in counties in upstate New York to make sure that all impacted homeowners have the most up to date information about the program. In addition, frequent TA meetings were held with applicants to assist homeowners in better understanding the program and completing the rebuilding process successfully.

Further the State also engaged the Welfare Council of Long Island/Long Island Long-Term Recovery Group (LTRG) to conduct targeted outreach to LMI persons who were affected by the Superstorm Sandy, in order to encourage these individuals to apply to the NY Rising Housing Recovery Assistance Program before the April 11, 2014 deadline.

For its rental programs, the State will continue to conduct outreach to potential landlords throughout the impacted areas that may be eligible for the program. As part of its implementation, the State will also conduct outreach to previous tenants of the damaged rental units to make them aware of potential repaired and newly built units as they are completed.

## **Outreach to Vulnerable Populations**

The State has also conducted outreach to residents with more acute needs, particularly LMI household and households headed by non-English speaking persons. As noted above, within the NYRCR program, where necessary, meetings were advertised in various languages to ensure the immigrant population was informed. Translators were also present at meetings so that information was clearly understood. For the hearing impaired, sign language interpreters were also available.

As the State continues to implement programs and work with communities to recover from Hurricane Irene, Tropical Storm Lee and Superstorm Sandy, GOSR is committed to continued outreach and program accessibility to vulnerable populations and ensuring that program information is accessible to populations with language barriers. For example, the APA is translated into Spanish, Russian and Chinese, which are the three languages most needed for persons with language barriers in impacted counties (based on the 2008-2012 ACS 5-Year Estimates, Table B16001, Populations 5 Years and Over Who Speak English less than “very well”).

Currently documents are translated into the three above-mentioned languages. The State will continue to translate programmatic materials within its programs. The State will also continue to provide translation services as needed in case management and public meetings.

The State is in the process of upgrading its entire website. In the interim, prior to deployment of the revised website, the State continues to update its current website to enable language access capabilities. In addition, as it rolls out the revised website, the State will prioritize language translation functionality as one of the first phases of the development process. The State will also provide translation of any document into additional languages, braille, or any other formats for persons with visual impairments upon request.

The State continues to further these efforts to reach out to all populations and ensure that the community is educated and aware of all of the recovery programs. As programs adjust and move into new phases, the State will continue to adjust their public outreach to ensure comprehensive outreach to all populations.

## **Public Notices, Public Hearings, and Comment Period**

The State Citizen Participation Plan will ensure that there is reasonable and timely access for public notice and comment on the activities proposed for the use of CDBG-DR grant funds. In the Notices for the Second and Third Allocation HUD revised the requirements for public hearings. The State will always hold a minimum of one public hearing for each substantial amendment which started with APA6. Written minutes of the hearings and attendance rosters will be kept for review by State officials. The State will continue to coordinate outreach meetings with State entities, local governments, non-profits, private sector, and involved associations. The State invited public comment to the New York Disaster Recovery Action Plan and will continue to invite public comment for any future Substantial Amendments for a minimum thirty days, posted prominently and accessed on GOSR’s official website.

## Substantial Amendments to the Action Plan

The State has defined Substantial Amendments to the Action Plan as those proposed changes that require the following decisions:

- Addition or deletion of any allowable activity described in the approved application;
- A Program allocation change that is both greater than \$5 million and more than 10 percent of a program allocation; and,
- Change in the planned beneficiaries.

Those amendments which meet the definition of a Substantial Amendment are subject to public notification, public hearings and public comment procedures. Citizens and UGLG will be provided with reasonable notice and an opportunity to comment on proposed Substantial Amendments to the Action Plan. A notice and copy of the proposed Substantial Amendment will be posted on the agency's official website. Citizens will be provided with no less than thirty days to review and comment on the proposed amendment. Written comments may be submitted to:

**Governor's Office of Storm Recovery  
64 Beaver Street  
P.O. Box 230  
New York, New York 10004**

Comments may also be made at [www.stormrecovery.ny.gov](http://www.stormrecovery.ny.gov). A summary of all comments received and reasons why any comments were not incorporated into the Substantial Amendment will be included in the HUD request for a Substantial Amendment and posted.

Non-substantial Amendments to the Action Plan will be posted on GOSR's website after notification is sent to HUD and the amendment becomes effective. Every Amendment to the Action Plan (substantial and non-substantial) will be numbered sequentially and posted on the website.

## Performance Reports

The State must submit a Quarterly Performance Report through HUD's Disaster Recovery Grant Reporting (DRGR) system no later than thirty (30) days following the end of each calendar quarter. Within three (3) days of submission to HUD, each QPR must be posted on GOSR's official website for public review and comment. The State's first QPR is due after the first full calendar quarter after the grant award. QPR's will be posted on a quarterly basis until all funds have been expended and all expenditures have been reported.

Each QPR will include information about the uses of funds in activities identified in the Action Plan as entered in the DRGR reporting system. This includes, but is not limited to: project name, activity, location, and National Objective; funds budgeted, obligated, drawn down, and expended; the funding source and total amount of any non-CDBG-DR funds to be expended on each activity; beginning and actual completion dates of completed activities; achieved performance outcomes such as number of housing units complete or number of LMI persons benefiting; and the race and ethnicity of persons assisted under direct-benefit activities. The State must also record the amount

of funding expended for each Contractor identified in the Action Plan. Efforts made by the State to affirmatively further fair housing will also be included in the QPR.

During the term of the grant, the grantee will provide citizens, affected local governments, and other interested parties with reasonable and timely access to information and records relating to the approved program and to the grantee's use of grant funds as well as contracts procured with CDBG-DR funding. This information shall be posted on the grantee's official website and provided on request.

### **Technical Assistance**

The State will provide TA to facilitate citizen participation where requested, particularly to groups representative of persons of LMI and vulnerable populations. The level and type of TA shall be determined by the applicant/recipient based upon the specific need of the community's citizens.

### **Citizen Participation Requirements for Sub-recipients and Local Governments Participating in CDBG-DR Programs**

To ensure applicant compliance with Section 508 of the Housing and Community Development Act of 1974, as amended, the citizen participation requirements for UGLG applying for or receiving DR funds from the State are as follows:

Each applicant shall provide citizens with adequate opportunity to participate in the planning, implementation, and assessment of the CDBG program. The applicant shall provide adequate information to citizens, obtain views and proposals of citizens, and provide opportunity to comment on the applicant's previous community development performance.

UGLGs receiving CDBG-DR funds must have a written and adopted Citizen Participation Plan which:

- Provides for and encourages citizen participation, with particular emphasis on participation by persons of low- and moderate-income who are residents of slum and blighted areas and of areas in which funds are proposed to be used;
- Provides citizens with reasonable and timely access to local meetings, information, and records relating to the State's proposed method of distribution, as required by regulations of the Secretary, and relating to the actual use of funds under Title I of the Housing and Community Development Act of 1974, as amended, and the unit of local government's proposed and actual use of CDBG funds;
- Provides for TA to groups representative of persons of low- and moderate-income that request such assistance in developing proposals with the level and type of assistance to be determined by the grantee;
- Provides for the review of proposed activities and program performance by potential or actual beneficiaries, and with accommodations for the disabled;
- Provides for a timely written answer to written complaints and grievances, within 15 working days where practicable;

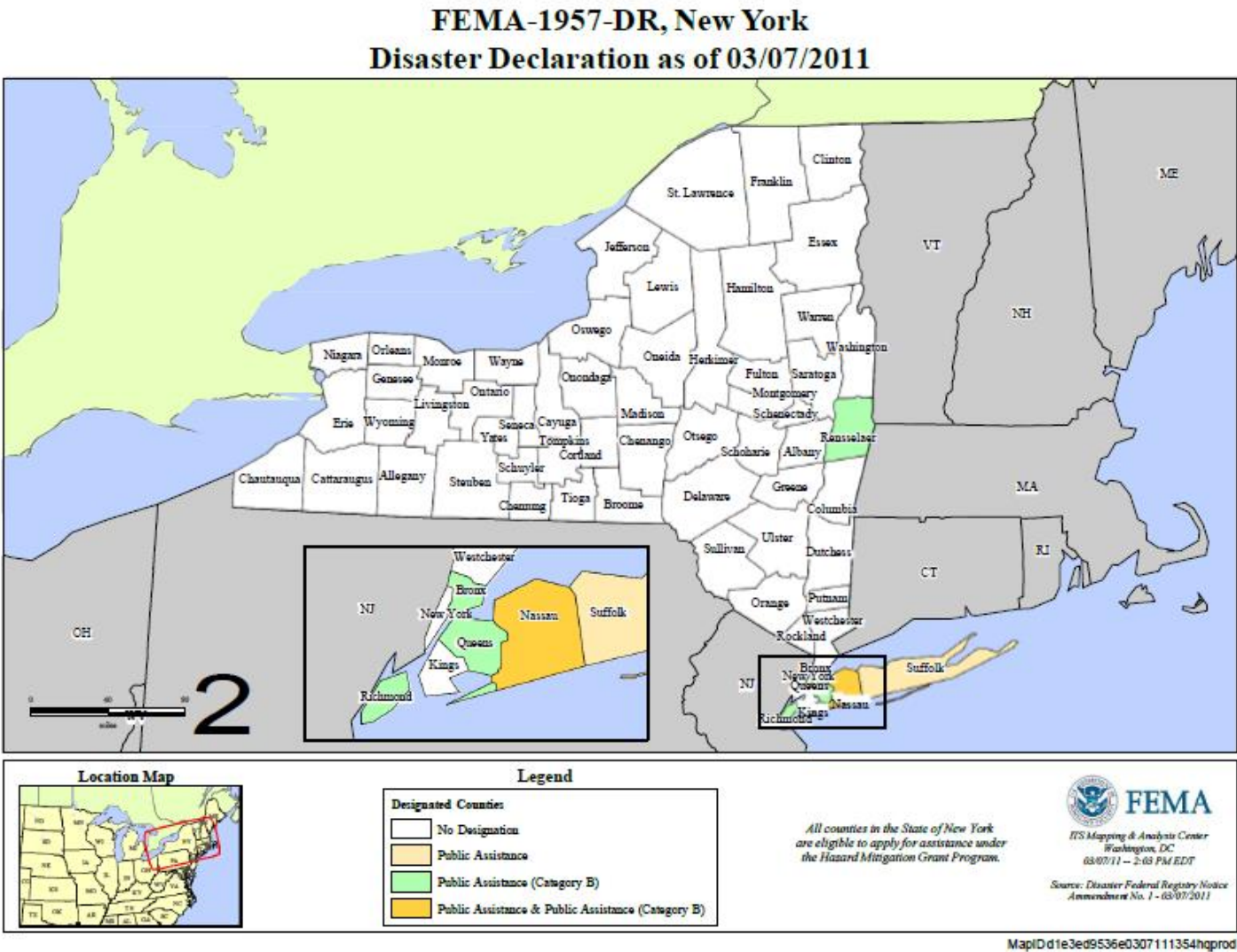
- Identifies how the needs of non-English speaking residents will be met where a significant number of non-English speaking residents can be reasonably expected to be involved;
- Establishes procedures and policies to ensure non-discrimination, based on disabilities, in programs, and activities receiving Federal financial assistance as required by Section 504 of the Rehabilitation Act of 1973, as amended.

The plan must be made available to the public and must include procedures that meet the following requirements:

- *Performance Hearings:* Prior to close out of the disaster recovery program, the Program, the UGLG and State sub-recipients may be required to hold a public hearing to obtain citizen views and to respond to questions relative to the performance of the program. This hearing shall be held after adequate notice, at times and locations convenient to actual beneficiaries and with accommodations for the disabled and non-English speaking persons provided. Written minutes of the hearings and attendance rosters will be kept for review by State officials. Nothing in these requirements shall be construed to restrict the responsibility and authority of the applicant for the development of the application.

*Complaint Procedures:* The State will ensure that each UGLG, or as appropriate, Sub-recipient funded with CDBG-DR funds will have written citizen and administrative complaint procedures. The written Citizen Participation Plan shall provide citizens with information relative to these procedures or, at a minimum, provide citizens with the information relative to the location and hours at which they may obtain a copy of these written procedures. All written citizen complaints which identify deficiencies relative to the UGLG, Sub-recipient's community development program will merit careful and prompt consideration. All good faith attempts will be made to satisfactorily resolve the complaints at the local level. Complaints will be filed with the Executive director or chief elected official of the entity who is receiving the funds and who will investigate and review the complaint. A written response from the Chief Elected Official, Agency Head, or Executive Director to the complainant will be made within 15 working days, where practicable. A copy of the complaint and determination must be sent to GOSR's head of Monitoring and Compliance.

Appendix 3 – Disaster Impact Maps



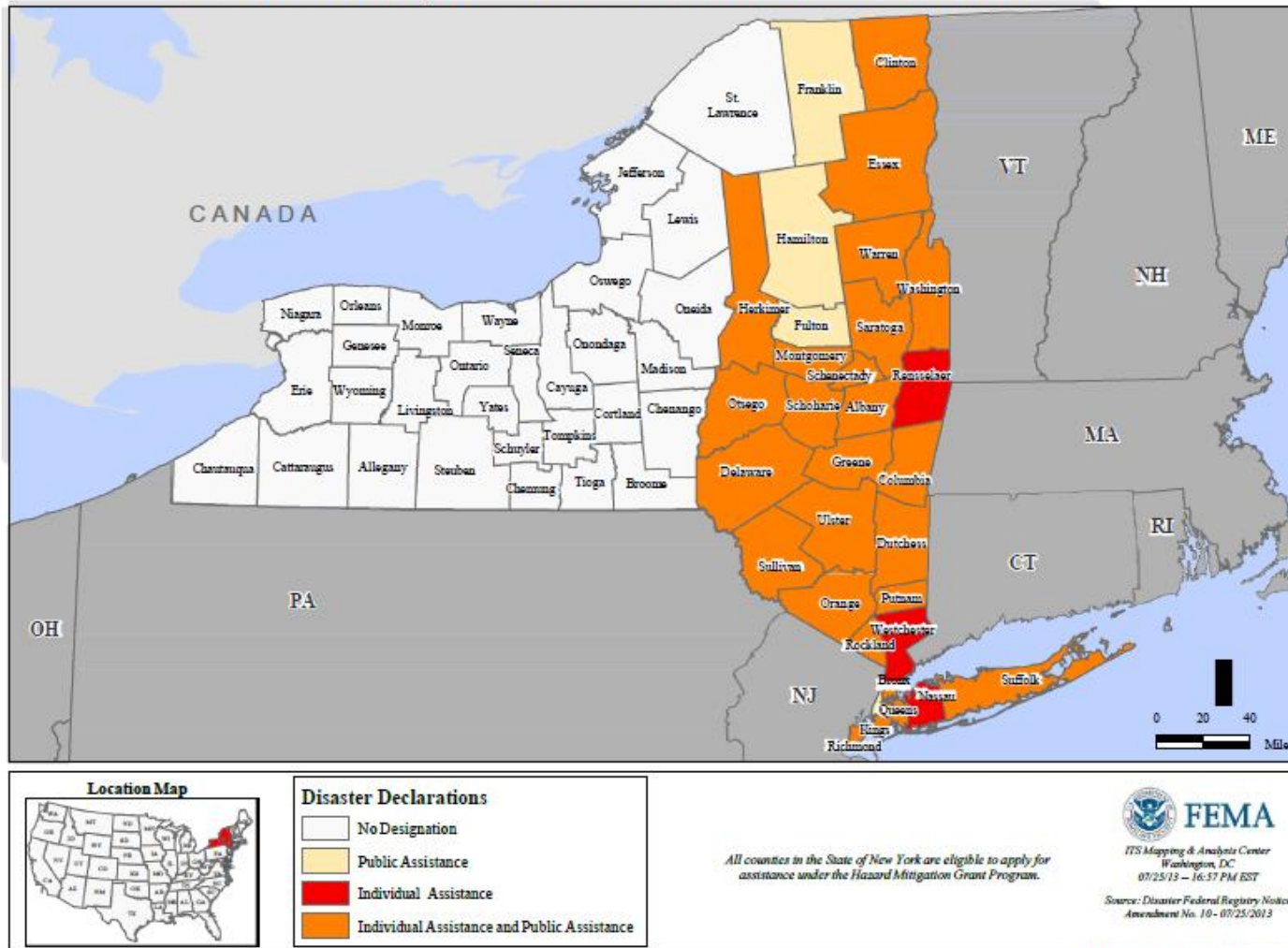


Map of New York State showing county boundaries and names. The map is color-coded: yellow for counties with a population of 100,000 or more, and white for counties with a population of less than 100,000. The map includes labels for neighboring states (VT, NH, ME, MA, CT, RI, NJ, PA, OH) and Canada. A scale bar at the bottom left indicates a distance of 20 miles. A legend at the bottom right identifies the color coding for population size.

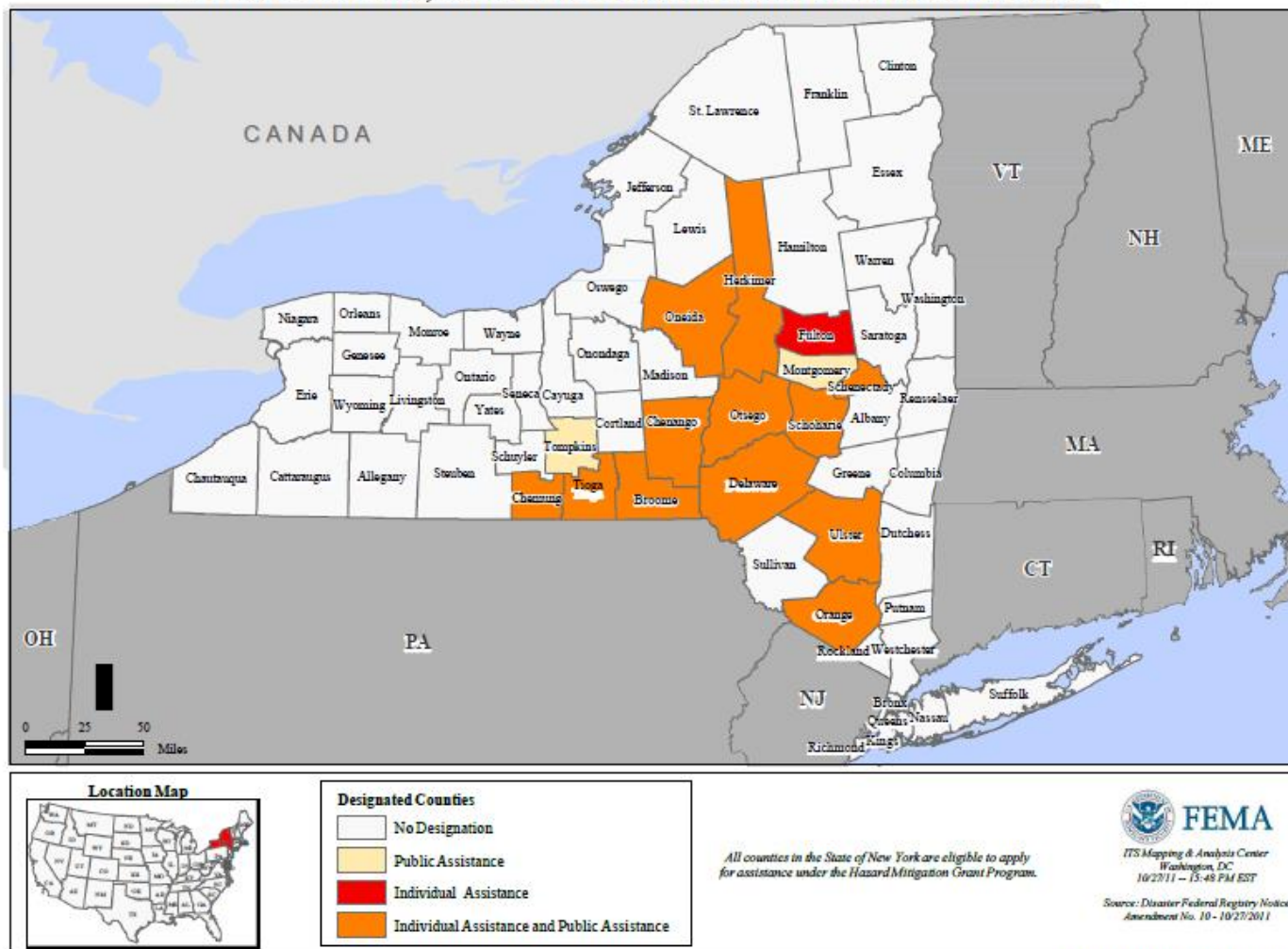
## FEMA-1993-DR, New York Disaster Declaration as of 06/29/2011



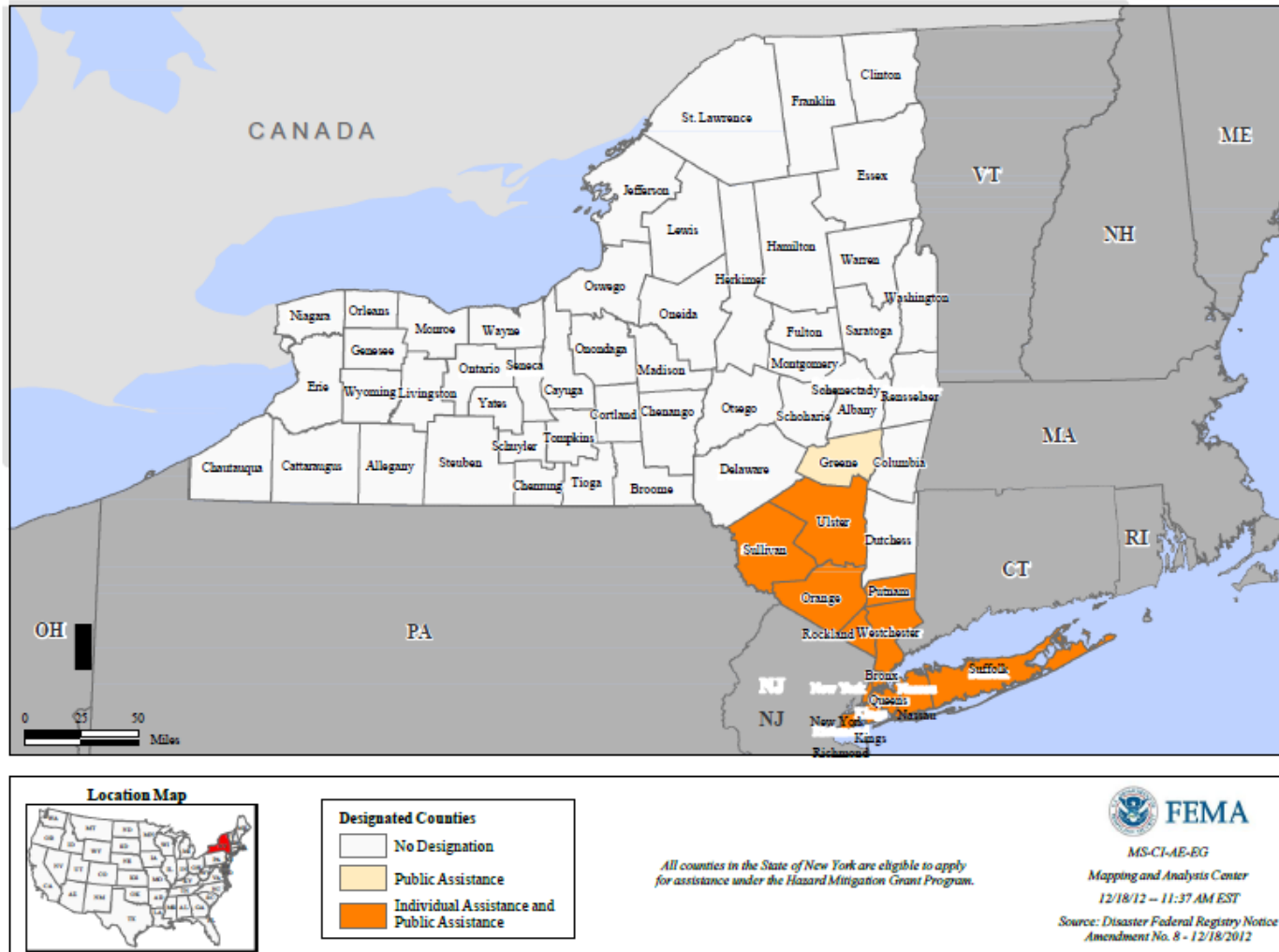
## FEMA-4020-DR, New York Disaster Declaration as of 07/25/2013



## FEMA-4031-DR, New York Disaster Declaration as of 10/27/2011

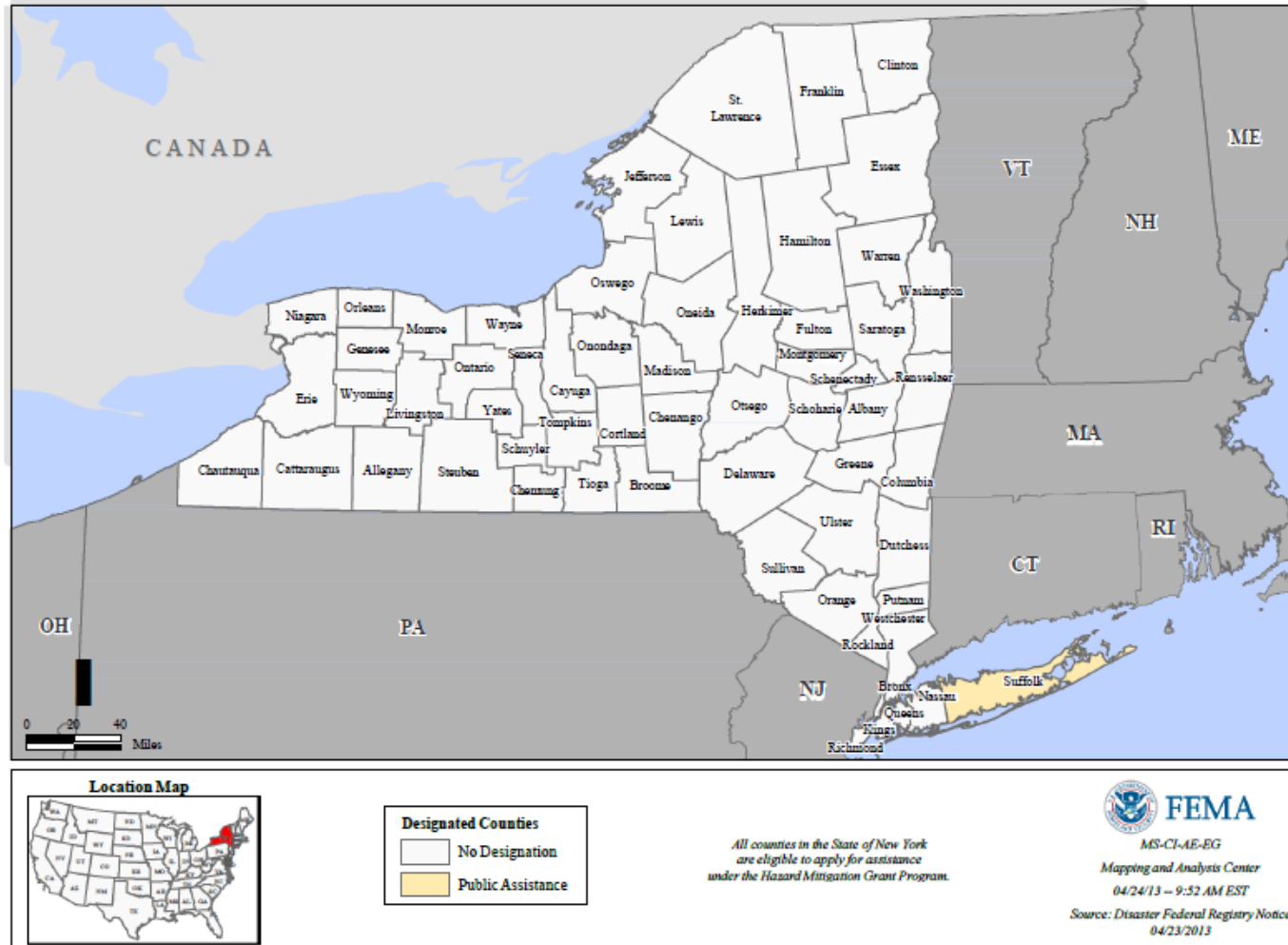


## FEMA-4085-DR, New York Disaster Declaration as of 12/18/2012



MapIDfbca0de133e1218121137hqprod

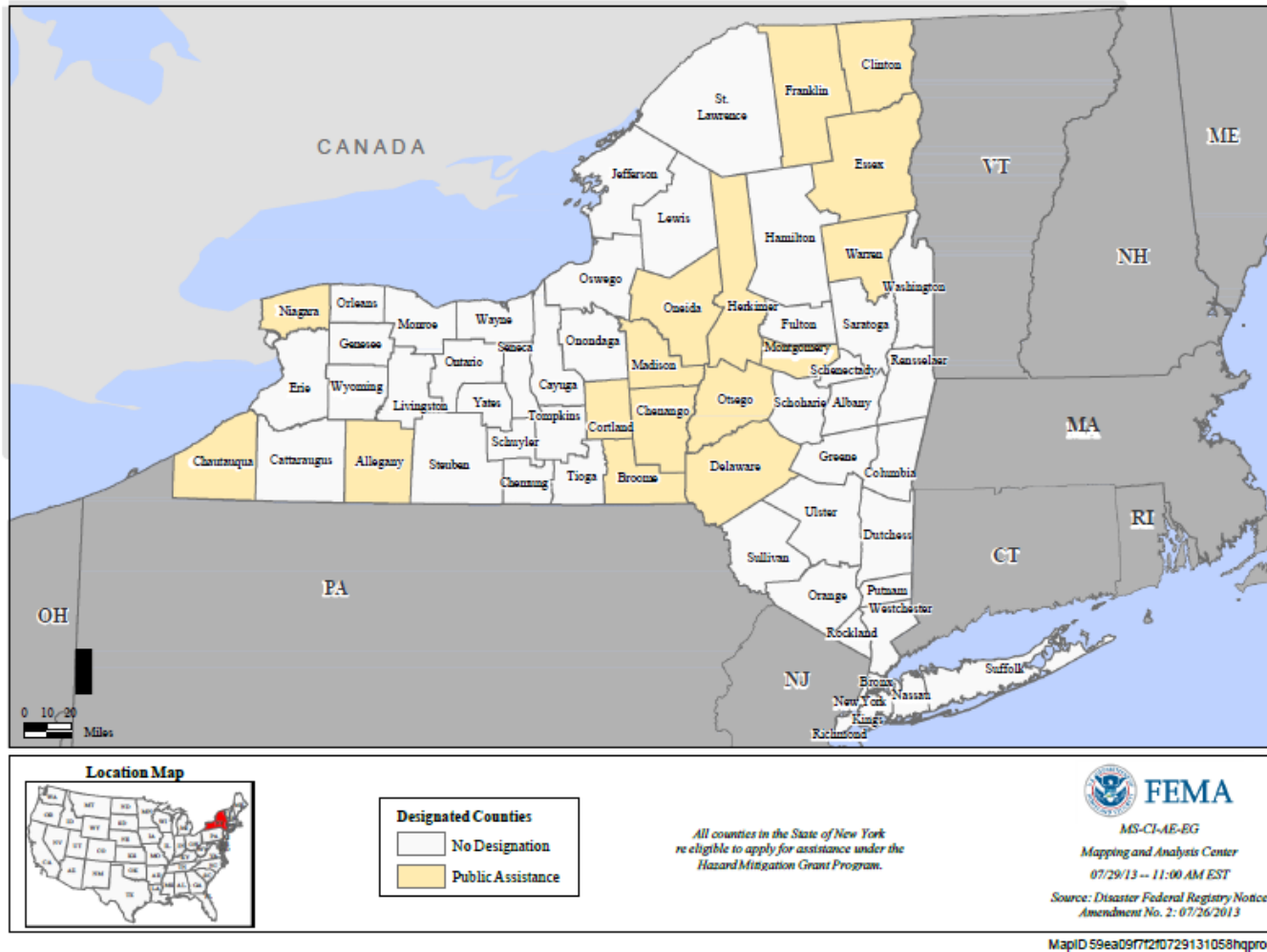
## FEMA-4111-DR, New York Disaster Declaration as of 04/23/2013



MapID 3715e5160a20424130950hqprod



# FEMA-4129-DR, New York Disaster Declaration as of 07/26/2013



## Appendix 4 – HUD Davis Bacon Guidance Letter



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WASHINGTON, DC 20410-7000

OFFICE OF COMMUNITY PLANNING

AND DEVELOPMENT

DEC 04

Mr. Calvin Johnson  
Assistant Director  
NYC Office of Management and Budget 255  
Greenwich Street, 8th floor

New York, NY 10007 Dear

Mr. Johnson:

The city of New York has requested that the Department coordinate with the U.S. Department of Labor (DOL) to provide clarification regarding the application of Davis-Bacon requirements for Community Development Block Grant disaster recovery (CDBG-DR) funds awarded under the Disaster Relief Appropriations Act, 2013 (P.L. 113-2) and used as the local match for the Federal Emergency Management Agency's (FEMA) Public Assistance (PA) grant program.

The CDBG authorizing statute requires that laborers and mechanics employed by contractors and subcontractors on construction work financed in whole or in part with CDBG funds be paid not less than locally prevailing wages as determined by DOL under the Davis-Bacon Act. 42 U.S.C. 5310. As noted below, there are exceptions for work performed on residential properties containing less than eight units and for work performed by bona fide volunteers. These Davis-Bacon provisions ensure that when disaster recovery work is financed with CDBG assistance, construction workers are paid an appropriate wage rate prevailing in the locality where the work is performed, furthering economic recovery.

The guidance provided here was jointly developed by DOL and HUD in order to respond to the city's request, as well as similar requests from the States of New York and New Jersey, for clarification on the cross-cutting requirement. This guidance is limited to New York City, New York State and the State of New Jersey. The guidance in this document relates specifically to three HUD CDBG-DR grants: the city of New York grant agreement for grant number B-13-MS-36-0001 dated August 16, 2013; the State of New Jersey CDBG-DR grant agreement for grant number

B-13-DS-34-0001 dated May 13, 2013; and the New York State CDBG-DR grant agreement for grant number B-13-DS-36-0001 dated May 14, 2013.

September 9, 2021

### **Guidance on Application of Davis-Bacon on CDBG-DR funds for FEMA Match Activities**

Where FEMA disaster assistance is used for disaster recovery activities that include construction work, CDBG-DR assistance funds may be identified as "match" for the FEMA disaster assistance. In some cases, the commitment of CDBG-DR funds as a match may occur after the construction work has already commenced or even after the work has been completed.

If a grant agreement between HUD and the CDBG-DR grantee providing for the use of the CDBG-DR funds as a match for the FEMA assistance was executed after all of the construction work on a project was completed, Davis-Bacon would not apply to that project.

Where construction work commenced after the date of the applicable CDBG-DR grant agreement, the CDBG statute applies Davis-Bacon wage rates to such construction work financed in whole or in part with the CDBG-DR funds (with statutory exceptions for residential properties containing less than eight units and for bona fide volunteers).

As a general rule, if construction work began prior to the applicable CDBG-DR grant agreement but was still ongoing as of the date of the grant agreement, DOL regulations at 29 CFR 1.6(g) require that the Davis-Bacon wage rates that were in effect at the time of award of the construction contract (or the beginning of construction where there is no contract award) must be incorporated in the contract specifications retroactively to the date of contract award (or the beginning of construction, where applicable). However, HUD may, on a case-by-case basis, request DOL to instead require prospective application of appropriate Davis-Bacon wage determination(s) from the date on which the HUD assistance was approved. DOL may provide for prospective application of Davis-Bacon requirements (from the date of the HUD CDBG-DR grant agreement providing match funds for FEMA assistance) where it finds that it is necessary and proper in the public interest to prevent injustice or undue hardship and it finds no intent to apply for the CDBG-DR assistance before contract award (or the start of construction if there was no contract award). In any instance where DOL grants a HUD request, the DOL response will include information to identify the applicable Davis-Bacon wage determination(s).

HUD Form 4010, titled: Federal Labor Standards Provisions, must be included in contracts to which the Davis-Bacon requirements apply, as described above, along with the appropriate Davis-Bacon wage determination(s). HUD's New York and New Jersey Labor Relations Specialist, Gary Kinsel, can be reached, at (716) 551-5755, ext. 5003 regarding Davis-Bacon wage requirements.

If you would like to discuss the need for prospective application of Davis-Bacon requirements, please contact Mr. Stanley Gimont, Director, Office of Block Grant Assistance, at (202) 708-3587. Thank you for your continued commitment to partnership with HUD on Hurricane Sandy recovery.

Sincerely,  
Marion Mollegen McFadden  
Deputy Assistant Secretary for Grant Programs

## Appendix 5 – National Objective Service Area Mapping Methodology

	Applicant Type										
Category	Local Gov't	County Gov't	Fire Dept / Emergency Services/First Responders/Police	Public School/District	Localized Work	Private schools and universities, PNPs, Hospitals/Healthc are providers, private recreational facilities (golf courses, etc.), other "limited clientele" facilities	State Agencies	Parks	Indian Reservation	Library/ Museum	Utilities (Water / Sanitary)
A: Debris Removal		<b>Method:</b> County boundaries <b>Source:</b> 2015 TIGER/Line Shapefiles [machine-readable data files]/prepared by the U.S. Census Bureau, 2015				<b>Method:</b> Not identified, physical service areas likely do not exist. Likely to be classified as UN <b>Source:</b>	<b>Method:</b> TBD- designated as UN since service area is statewide <b>Source:</b>				
B: Emergency Protective Measures	<b>Method:</b> Municipal boundaries (with some exceptions) <b>Source:</b> 2015 TIGER/Line Shapefiles [machine-readable data files]/prepared by the U.S. Census Bureau, 2015		<b>Method:</b> District service area boundaries <b>Source:</b> Digital Shapefiles from NYS Division of Homeland Security and Emergency Services and NYS Division of Criminal Justice Services.	<b>Method:</b> School district boundaries <b>Source:</b> 2015 TIGER/Line Shapefiles [machine-readable data files]/prepared by the U.S. Census Bureau, 2015;	<b>Method:</b> Adjacent Census Block Groups, with customization <b>Source:</b> 2015 TIGER/Line Shapefiles [machine-readable data files]/prepared by the U.S. Census Bureau, 2015						
C: Roads and Bridges		<b>Method:</b> Not identified, physical service areas likely exist <b>Source:</b> 2015 TIGER/Line Shapefiles [machine-readable data files]/prepared by the U.S. Census Bureau, 2015				<b>Method:</b> Not identified, physical service areas likely exist <b>Source:</b>		<b>Method:</b> 1/4-mile buffer, with customization <b>Source:</b> 2015 TIGER/Line Shapefiles [machine-readable data files]/prepared by the U.S. Census Bureau, 2015; other shapefiles and data collected from various sources online and from individual service providers.	<b>Method:</b> TBD - exploring limited clientele language to presume LMI <b>Source:</b>	<b>Method:</b> Not identified, physical service areas likely do not exist. Likely to be classified as UN <b>Source:</b>	<b>Method:</b> District service area boundaries <b>Source:</b> 2015 TIGER/Line Shapefiles [machine-readable data files]/prepared by the U.S. Census Bureau, 2015; other shapefiles and data collected from various sources online and from individual service providers.
D: Water Control Facilities	<b>Method:</b> Identify and map existing service areas if available <b>Source:</b> 2015 TIGER/Line Shapefiles [machine-readable data files]/prepared by the U.S. Census Bureau, 2015; other shapefiles and data collected from various sources online and from individual service providers.										
E: Buildings and Equipment	<b>Method:</b> Not Identified, physical service areas likely exist <b>Source:</b>										
F: Utilities	<b>Method:</b> Identify and map existing service areas if available <b>Source:</b> 2015 TIGER/Line Shapefiles [machine-readable data files]/prepared by the U.S. Census Bureau, 2015; other shapefiles and data collected from various sources online and from individual service providers.										
G: Parks, Recreation Facilities, and Other Facilities	<b>Method:</b> 1/4-mile buffer, with customization <b>Source:</b> 2015 TIGER/Line Shapefiles [machine-readable data files]/prepared by the U.S. Census Bureau, 2015; other shapefiles and data collected from various sources online and from individual service providers.										

## Appendix 6 – Environmental Review

10/07/2015

### FEDERAL EMERGENCY MANAGEMENT AGENCY

REC-01

17:36:16

### RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project ID: PA-02-NY-4085-PW-04678

Title: 8400007-Water front latent damages

#### NEPA DETERMINATION

Non Compliant Flag: No  
EA Draft Date:  
EA Final Date:  
EA Public Notice Date:  
EA Foml Date:  
Level: CATEX  
EIS Notice of Intent Date:  
EIS ROD Date:

Comments: City of Yonkers, Westchester County (40.932225 , -73.904875), Cat E, 0.0% complete: Work Previously Completed: removed and replaced Pole mounted site/naulical light fixtures with cast iron poles. Grade mounted (in ground) fiberglass light fixtures and Wall mounted (Fluorescent step light) fixtures. Work to be completed: remove and replace damaged power switches and transformers cabinets and corroded underground junction boxes, conduits, wiring and connections. MITIGATION: the Applicant proposes to Convert existing street lights to off-the-grid solar photovoltaic (PV) powered LEDs on pre-existing light poles. - dleekle - 10/06/2015 17:33:57 GMT

#### CATEX CATEGORIES

Catex Category Code	Description	Selected
xv	(xv) Repair, reconstruction, restoration, elevation, retrofitting, upgrading to current codes and standards, or replacement of any facility in a manner that substantially conforms to the preexisting design, function, and location;	Yes
xvi	(xvi) Improvements to existing facilities and the construction of small scale hazard mitigation measures in existing developed areas with substantially completed infrastructure, when the immediate project area has already been disturbed, and when those actions do not alter basic functions, do not exceed capacity of other system components, or modify intended land use; provided the operation of the completed project will not, of itself, have an adverse effect on the quality of the human environment;	Yes

#### EXTRAORDINARY CIRCUMSTANCES

Extraordinary Circumstance Code	Description	Selected ?
	No Extraordinary Circumstances were selected	

#### ENVIRONMENTAL LAW / EXECUTIVE ORDER

Environmental Law/ Executive Order	Status	Description	Comments
Clean Air Act (CAA)	Completed	Project will not result in permanent air emissions - Review concluded	
Coastal Barrier Resources Act (CBRA)	Completed	Project is not on or connected to CBRA Unit or otherwise protected area - Review concluded	
Clean Water Act (CWA)	Completed	Project would not affect any water of the U.S. - Review concluded	

NOTE: All times are GMT using a 24-hour clock.

Page 1 of 3

10/07/2015  
17:36:16

## FEDERAL EMERGENCY MANAGEMENT AGENCY

REC-01

### RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project ID: PA-02-NY-4085-PW-04678

Title: 8400007-Water front latent damages

Environmental Law/ Executive Order	Status	Description	Comments
Coastal Zone Management Act (CZMA)	Completed	Project is located in a coastal zone area and/or affects the coastal zone	CZMA: The project scope of work meets the criteria for one or more activities permitted under the consistency review outlined in the agreement between the New York Department of State and the New York state Office of Emergency Management per 15 CFR 930 Subpart F. No further consistency review is required for this scope of work. - dieckle - 10/06/2015 17:26:12 GMT
	Completed	State administering agency requires consistency review - Review concluded	
Executive Order 11988 - Floodplains	Completed	Located in floodplain or effects on floodplain/flood levels	EO 11988: The project is located within the AE/7 Zone per Westchester County flood insurance rate map (FIRM) panel number 361196C0317F dated 9/28/2007. Per 44 CFR §9.6, FEMA has applied the 8-step decision- making process, and has determined that the project will result in no short- or long-term adverse effects to the floodplain. Per 44 CFR §9.11(d)(6) the Subgrantee is responsible for compliance with local floodplain ordinances. See attached 8-step documentation. - dieckle - 10/06/2015 17:30:54 GMT
	Completed	Possible adverse effects associated with investment in floodplain, occupancy or modification of floodplain environment	
	Completed	8 Step Process Complete - documentation attached - Review concluded	
Executive Order 11990 - Wetlands	Completed	No effects on wetlands and project outside wetlands - Review concluded	
Executive Order 12898 - Environmental Justice for Low Income and Minority Populations	Completed	Low income or minority population in or near project area	
	Completed	No disproportionately high and adverse impact on low income or minority population - Review concluded	
Endangered Species Act (ESA)	Completed	No listed species and/or designated critical habitat present in areas affected directly or indirectly by the federal action - Review concluded	ESA: Per review of U.S. Fish and Wildlife Services Information for Planning, and Conservation System (IPaC), accessed 10/6/2015, there are no threatened or endangered species, or Critical Habitat, listed for this project site (40.932225, -73.904875). - dieckle - 10/06/2015 17:25:25 GMT

NOTE: All times are GMT using a 24-hour clock.

Page 2 of 3



10/07/2015  
17:35:16

**FEDERAL EMERGENCY MANAGEMENT AGENCY**  
**RECORD OF ENVIRONMENTAL CONSIDERATION (REC)**

REC-01

**Project ID:** PA-02-NY-4085-PW-04678

**Title:** 8400007-Water front latent damages

Environmental Law/ Executive Order	Status	Description	Comments
Farmland Protection Policy Act (FPPA)	Completed	Project does not affect designated prime or unique farmland - Review concluded	
Fish and Wildlife Coordination Act (FWCA)	Not Applicable	Project does not affect, control, or modify a waterway/body of water - Review concluded	
Migratory Bird Treaty Act (MBTA)	Completed	Project located within a flyway zone	
	Completed	Project does not have potential to take migratory birds - Review concluded	
Magnuson-Stevens Fishery Conservation and Management Act (MSA)	Completed	Project not located in or near Essential Fish Habitat - Review concluded	
National Historic Preservation Act (NHPA)	Completed	Applicable executed Programmatic Agreement. Activity meets Programmatic Allowance (enter date and # in comments) - Review concluded	NHPA: Per the 2014 Statewide Programmatic Agreement, the scope of work for this project meets the following Tier II Allowance(s) (I.B.2). This determination was made by (Daniel T. Leckie) who meets the applicable SOI qualified staff pursuant to Stipulation I.B.1.a of the Agreement. - dieckie - 10/06/2015 17:25:08 GMT
Wild and Scenic Rivers Act (WSR)	Completed	Project is not along and does not affect Wild and Scenic River - Review concluded	

**CONDITIONS**

**Standard Conditions:**

Any change to the approved scope of work will require re-evaluation for compliance with NEPA and other Laws and Executive Orders.

This review does not address all federal, state and local requirements. Acceptance of federal funding requires recipient to comply with all federal, state and local laws. Failure to obtain all appropriate federal, state and local environmental permits and clearances may jeopardize federal funding.

If ground disturbing activities occur during construction, applicant will monitor ground disturbance and if any potential archeological resources are discovered, will immediately cease construction in that area and notify the State and FEMA.

NOTE: All times are GMT using a 24-hour clock.

Page 3 of 3

## **Appendix 7 – GOSR Document Collection Letter for Hurricane Irene and Tropical Storm Lee Allocation Applicants to the FEMA Non-Federal Share Local Match Program**

## Appendix 8 – Non-Federal Share FEMA Public Assistance Local Match Program Documentation Collection letters to Applicants and Checklist templates

### (INSERT APPLICANT NAME HERE) Document Checklist

<input type="checkbox"/>	Procurement Policy						
<input type="checkbox"/>	Emergency Declaration						
<input type="checkbox"/>	Payroll Policy (Employee Contracts or Union Contracts)						
<input type="checkbox"/>	Equipment Inventory Form						
<input type="checkbox"/>	Signed PW (Following PWs Only)						
	<table border="1"><tr><td></td><td></td></tr><tr><td></td><td></td></tr><tr><td></td><td></td></tr></table>						
<input type="checkbox"/>	Direct Administrative Costs Summary (Following PWs Only)						
	<table border="1"><tr><td></td><td></td></tr><tr><td></td><td></td></tr><tr><td></td><td></td></tr></table>						
<input type="checkbox"/>	Time Sheets and Payroll Reports (Following PWs Only)						
	<table border="1"><tr><td></td><td></td></tr><tr><td></td><td></td></tr><tr><td></td><td></td></tr></table>						
<input type="checkbox"/>	Equipment Daily Use Logs (Following PWs Only)						
	<table border="1"><tr><td></td><td></td></tr><tr><td></td><td></td></tr><tr><td></td><td></td></tr></table>						
<input type="checkbox"/>	Bid Documents (Following PWs Only)						
	<table border="1"><tr><td></td><td></td></tr><tr><td></td><td></td></tr><tr><td></td><td></td></tr></table>						
<input type="checkbox"/>	Contracts (Fully Executed, Following PWs Only)						
	<table border="1"><tr><td></td><td></td></tr><tr><td></td><td></td></tr><tr><td></td><td></td></tr></table>						

<input type="checkbox"/>	<b>Canceled Checks (Following PWs Only)</b>

<input type="checkbox"/>	<b>Invoices (Following PWs only)</b>

<input type="checkbox"/>	<b>Permits (Following PWs only)</b>

<input type="checkbox"/>	<b>Notes:</b> <div> <p>The following PWs were not completed at the time they were written so a description of work to be completed and documents needed is attached.</p> </div>



## GOVERNOR'S OFFICE OF STORM RECOVERY

Andrew M. Cuomo  
Governor

James Rubin  
Executive Director



Monday, April 13, 2015

«Full\_Name»  
«Job\_Title», «Applicant»  
«Business\_Address»

RE: Federal E-Grants EMMIE Files

Dear «Job\_Title» «Last\_Name»,

On November 13, 2014 Governor Cuomo announced that the State would provide the “match” for FEMA Public Assistance (PA) projects resulting from The Upstate Flooding Event (4129). This includes the match for project worksheets (PW’s) in the «Applicant». The funding for the match came from the State of New York’s allocation of the United States Department of Housing and Urban Development (HUD) Community Development Block Grant Disaster Recovery program (CDBG-DR) funds. These funds are managed by the Governor’s Office of Storm Recovery (GOSR).

Similar to the PA program, CDBG-DR funds have programmatic requirements that the State must comply with to satisfy Federal requirements. To compile files for HUD to support match payments made by the State for the «Applicant», GOSR uses FEMA’s Federal E-Grants database (EMMIE) to obtain necessary documentation. However, not all HUD required documents are currently contained in EMMIE.

As a requirement of participation in the GOSR local match program, and to provide your local match share, you will need to provide GOSR with the required documentation, provided on the attached worksheets, to ensure that your project complies with any and all applicable Federal and State regulations. This includes, but is not limited to, the following HUD requirements: the Davis Bacon Act (40 U.S.C. §§ 276a to 276a-7) as supplemented by Department of Labor regulations (29 C.F.R. part 5); Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u (section 3); and taking all necessary affirmative steps to assure that minority firms, women’s business enterprises, and labor surplus area firms are used in subcontracting when possible in accordance with 24 C.F.R. § 85.36 (e).

GOSR is prepared to provide technical assistance to help you comply with these requirements. However, it is respectfully requested that the required and requested documents as shown on the attached checklist be scanned and uploaded to the USB flash drive provided to you by GOSR. Please ensure that all documents are **clearly readable** and **not encrypted** and mail to:



## GOVERNOR'S OFFICE OF STORM RECOVERY

Andrew M. Cuomo  
Governor

James Rubin  
*Executive Director*



ATTN: John Scarpa,  
Infrastructure and Local Government Programs  
Governor's Office of Storm Recovery  
25 Beaver Street 5<sup>th</sup> Floor  
New York, NY 10004

Please send the documents within 21 days so that they may be placed in the file at the Governor's Office of Storm Recovery. Also attached is set of simple instructions to aid you in uploading files onto the USB flash drive. If you have additional questions, please do not hesitate to email us at [LOCALMATCH@stormrecovery.ny.gov](mailto:LOCALMATCH@stormrecovery.ny.gov).

Please contact us via e-mail at [LOCALMATCH@stormrecovery.ny.gov](mailto:LOCALMATCH@stormrecovery.ny.gov) to confirm the receipt of this notice or if you have any issues regarding your USB flash drive.

Thanking you in advance for assistance on this matter.

Sincerely,

Kris Van Orsdel  
Director Infrastructure & Local Government Programs  
Governor's Office of Storm Recovery  
25 Beaver Street  
New York, NY 10004





## GOVERNOR'S OFFICE OF STORM RECOVERY

Andrew M. Cuomo  
Governor

James Rubin  
Executive Director



Friday, April 3, 2015

«Full\_Name»  
«Job\_Title», «Applicant»  
«Business\_Address»

RE: Federal E-Grants EMMIE Files

Dear «Job\_Title» «Last\_Name»,

On July 23, 2014 Governor Cuomo announced that the State would provide the “match” for FEMA Public Assistance (PA) projects resulting from Superstorm Sandy (4085). This includes the match for project worksheets (PW’s) in the «Applicant». The funding for the match came from the State of New York’s allocation of the United States Department of Housing and Urban Development (HUD) Community Development Block Grant Disaster Recovery program (CDBG-DR) funds. These funds are managed by the Governor’s Office of Storm Recovery (GOSR).

Similar to the PA program, CDBG-DR funds have programmatic requirements that the State must comply with to satisfy Federal requirements. To compile files for HUD to support match payments made by the State for the «Applicant», GOSR uses FEMA’s Federal E-Grants database (EMMIE) to obtain necessary documentation. However, not all HUD required documents are currently contained in EMMIE.

As a requirement of participation in the GOSR local match program, and to provide your local match share, you will need to provide GOSR with the required documentation, provided on the attached worksheets, to ensure that your project complies with any and all applicable Federal and State regulations. This includes, but is not limited to, the following HUD requirements: the Davis Bacon Act (40 U.S.C. §§ 276a to 276a-7) as supplemented by Department of Labor regulations (29 C.F.R. part 5); Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u (section 3); and taking all necessary affirmative steps to assure that minority firms, women’s business enterprises, and labor surplus area firms are used in subcontracting when possible in accordance with 24 C.F.R. § 85.36 (e).

GOSR is prepared to provide technical assistance to help you comply with these requirements. However, it is respectfully requested that the required and requested documents as shown on the attached checklist be scanned and uploaded to the USB flash drive provided to you by GOSR. Please ensure that all documents are **clearly readable** and **not encrypted** and mail to:



## GOVERNOR'S OFFICE OF STORM RECOVERY

Andrew M. Cuomo  
Governor

James Rubin  
*Executive Director*



ATTN: John Scarpa,  
Infrastructure and Local Government Programs  
Governor's Office of Storm Recovery  
25 Beaver Street 5<sup>th</sup> Floor  
New York, NY 10004

Please send the documents within 21 days so that they may be placed in the file at the Governor's Office of Storm Recovery. Also attached is set of simple instructions to aid you in uploading files onto the USB flash drive. If you have additional questions, please do not hesitate to email us at [LOCALMATCH@stormrecovery.ny.gov](mailto:LOCALMATCH@stormrecovery.ny.gov).

Please contact us via e-mail at [LOCALMATCH@stormrecovery.ny.gov](mailto:LOCALMATCH@stormrecovery.ny.gov) to confirm the receipt of this notice or if you have any issues regarding your USB flash drive.

Thanking you in advance for assistance on this matter.

Sincerely,

Kris Van Orsdel  
Director Infrastructure & Local Government Programs  
Governor's Office of Storm Recovery  
25 Beaver Street  
New York, NY 10004

## Appendix 9 - FEMA Public Assistance Non-Federal Share Local Match Program Procurement and Compliance Procedures

**Project Size:** Small

**FEMA Categories:** A – G

**Funding Threshold:** FEMA Designated Small Projects

**Analyst Review:**

- File transfer from EMMIE
- Complete FEMA PW Review
  - FEMA Notes for special project comments/considerations
  - Environmental/Historic Preservation
  - Hazard Mitigation
  - Insurance
  - Cost Review and Ineligible Items
  - Procurement Review
  - Additional project comments
  - Funding Review
    - Project Obligated Amount
    - Ineligible Reductions
    - Eligible State Share Amount
    - CDBG Recommended Amount
    - Funding Recommendation Final Comments
    - Funding Recommendation Final Amount
- Complete CDBG Checklist Review
  - FEMA Documentation
  - Environmental Clearance
  - Financial/Cost Management
  - Labor Compliance
  - Citizen Participation (as applicable)
  - Civil Rights (as applicable)
  - Section 3 (as applicable)
  - CDBG Missing Documentation Comments

**Eligibility Manager Review:**

- Funding review check

**Project Lead Review:**

- Funding recommendation confirmation
- Funding recommendation comments verification

**Project Size:** Large

**FEMA Categories:** A – G

**Funding Threshold:** FEMA Designated Small Projects - \$150,000

**Analyst Review:**

- File transfer from EMMIE
- Complete FEMA PW Review

- FEMA Notes for special project comments/considerations
- Environmental/Historic Preservation
- Hazard Mitigation
- Insurance
- Cost Review and Ineligible Items
- Procurement Review
- Additional project comments
- Funding Review
  - Project Obligated Amount
  - Ineligible Reductions
  - Eligible State Share Amount
  - CDBG Recommended Amount
  - Funding Recommendation Final Comments
  - Funding Recommendation Final Amount
- Complete CDBG Checklist Review
  - FEMA Documentation
  - Environmental Clearance
  - Financial/Cost Management
  - Labor Compliance
  - Citizen Participation (as applicable)
  - Civil Rights (as applicable)
  - Section 3 (as applicable)
  - CDBG Missing Documentation Comments

**Eligibility Manager Review:**

- Funding review check
- Detailed CDBG checklist review

**Project Lead Review:**

- Funding recommendation confirmation
- Funding recommendation comments verification

**Project Size:** Large

**FEMA Categories:** A – G

**Funding Threshold:** \$150,001 - \$500,000

**Analyst Review:**

- File transfer from EMMIE
- Complete FEMA PW Review
  - FEMA Notes for special project comments/considerations
  - Environmental/Historic Preservation
  - Hazard Mitigation
  - Insurance
  - Cost Review and Ineligible Items
  - Procurement Review
  - Additional project comments

- Funding Review
  - Project Obligated Amount
  - Ineligible Reductions
  - Eligible State Share Amount
  - CDBG Recommended Amount
  - Funding Recommendation Final Comments
  - Funding Recommendation Final Amount
- Complete CDBG Checklist Review
  - FEMA Documentation
  - Procurement: \$150,001 - \$500,000 threshold
  - Environmental Clearance
  - Financial/Cost Management
  - Labor Compliance
  - Citizen Participation (as applicable)
  - Civil Rights (as applicable)
  - Section 3 (as applicable)
  - CDBG Missing Documentation Comments

**Eligibility Manager Review:**

- Funding review check
- In depth CDBG checklist review with detailed procurement review of projects between \$150,001 - \$500,000
  - Professional Services
    - Statements of Qualifications and/or Cost Proposals (when applicable)
    - Affidavit(s) of Proof(s) of Publication of Solicitation or proof of alternate method of publicizing Responses to RFP/RFQ
    - Copy of Rating/Scoring Sheet(s)
    - Cost Reasonableness Review
    - Executed Contract for Services and Any Amendments to Contract for Services
    - Contractor Clearance/Verification of Contractor Eligibility (SAMs- Federal Debarment Clearance)
  - Sealed Bid (Construction)
    - Advertisements for bids
    - Invitation to Bid
    - Plans and Specs
    - Special studies, surveys, investigations, tests results, etc., (as applicable)
    - Design documents and cost estimates
    - Bid documents
    - Permits
    - Tabulation of bids with copy of the bid proposal and bid bond submitted by each bidder
    - Bidder qualification information
    - Notice of award of the contract to the lowest responsible bidder

- Executed Contract for Services
- Notice to Proceed, if required
- Evidence of contractor verification of eligibility and approval
- Architect/engineer inspection reports or status reports
- Records of claims, disputes, etc.
- Change orders with supporting documentation and justification
- Final inspection and acceptance of project
- Clear lien certificate and final payment to contractor
- Certificate of substantial completion

**Project Lead Review:**

- Funding recommendation confirmation
- Funding recommendation comments verification

**Project Size:** Large

**FEMA Categories:** A – G **Funding**

**Threshold:** >\$500,001 **Analyst Review**

:

- File Transfer from EMMIE
- Complete FEMA PW Review
  - FEMA Notes for special project comments/considerations
  - Environmental/Historic Preservation
  - Hazard Mitigation
  - Insurance
  - Cost Review and Ineligible Items
  - Procurement Review
  - Additional project comments
  - Funding Review
    - Project Obligated Amount
    - Ineligible Reductions
    - Eligible State Share Amount
    - CDBG Recommended Amount
    - Funding Recommendation Final Comments
    - Funding Recommendation Final Amount
- Complete CDBG Checklist Review
  - FEMA Documentation
  - Procurement: \$500,001 threshold
  - Environmental Clearance
  - Financial/Cost Management
  - Labor Compliance
  - Citizen Participation (as applicable)
  - Civil Rights (as applicable)
  - Section 3 (as applicable)
  - CDBG missing documentation comments

**Eligibility Manager Review:**



- Funding review check
- In depth CDBG checklist review with detailed procurement review of projects over \$500,001
  - Professional Services
    - Statements of Qualifications and/or Cost Proposals (when applicable)
    - Affidavit(s) of Proof(s) of Publication of Solicitation or proof of alternate method of publicizing Responses to RFP/RFQ
    - Copy of Rating/Scoring Sheet(s)
    - Cost Reasonableness Review
    - Executed Contract for Services and Any Amendments to Contract for Services
    - Contractor Clearance/Verification of Contractor Eligibility (SAMs- Federal Debarment Clearance)
  - Sealed Bid (Construction)
    - Advertisements for bids
    - Invitation to Bid
    - Plans and Specs
    - Special studies, surveys, investigations, tests results, etc., (as applicable)
    - Design documents and cost estimates
    - Bid documents
    - Permits
    - Tabulation of bids with copy of the bid proposal and bid bond submitted by each bidder
    - Bidder qualification information
    - Notice of award of the contract to the lowest responsible bidder
    - Executed Contract for Services
    - Notice to Proceed, if required
    - Evidence of contractor verification of eligibility and approval
    - Architect/engineer inspection reports or status reports
    - Records of claims, disputes, etc.
    - Change orders with supporting documentation and justification
    - Final inspection and acceptance of project
    - Clear lien certificate and final payment to contractor
    - Certificate of substantial completion

#### **Project Lead Review:**

- Funding recommendation confirmation
- Funding recommendation comments verification
- In depth CDBG checklist review with detailed procurement review of projects over \$500,001
  - Professional Services
    - Statements of Qualifications and/or Cost Proposals (when applicable)

- Affidavit(s) of Proof(s) of Publication of Solicitation or proof of alternate method of publicizing Responses to RFP/RFQ
- Copy of Rating/Scoring Sheet(s)
- Cost Reasonableness Review
- Executed Contract for Services and Any Amendments to Contract for Services
- Contractor Clearance/Verification of Contractor Eligibility (SAMs- Federal Debarment Clearance)
- Sealed Bid (Construction)
  - Advertisements for bids
  - Invitation to Bid
  - Plans and Specs
  - Special studies, surveys, investigations, tests results, etc., (as applicable)
  - Design documents and cost estimates
  - Bid documents
  - Permits
  - Tabulation of bids with copy of the bid proposal and bid bond submitted by each bidder
  - Bidder qualification information
  - Notice of award of the contract to the lowest responsible bidder
  - Executed Contract for Services
  - Notice to Proceed, if Required
  - Evidence of contractor verification of eligibility and approval
  - Architect/engineer inspection reports or status reports
  - Records of claims, disputes, etc.
  - Change orders with supporting documentation and justification
  - Final inspection and acceptance of project
  - Clear lien certificate and final payment to contractor
  - Certificate of substantial completion
- Complete review, recommendation, in-depth quality check, justification and approval of project recommendation
- Memo to recommendation and file on any special considerations by FEMA, planned versioning, improved project follow up, etc.

## Appendix 10 - FEMA Public Assistance Non-Federal Share Local Match Program Procurement and Compliance Procedures

### FEMA PA File Management

#### Folder Structure

Folder Tier 1	Folder Tier 2	Folder Tier 3	Folder Tier 4	Folder Tier 5	Folder Tier 6
Storm					
	Applicant				
		Paid			
			Program_Monitoring		
			PW (paid)		
				Correspondence	
				Draw_Support	
					Financial
					Procurement
				Environmental	
				FEMA_Closing_Documents	
				FEMA_Standard_Documents	
				Financial	
				FIRM_Documents	
				Justification_and_Waivers	
				National_Objective	
				Procurement	
				Supporting_Documentation	
					EMMIE_Originals
					Site_Document_Retrieval
		PW (not paid)			
			Correspondence		
			Draw_Support		
				Financial	
				Procurement	
			Environmental		
			FEMA_Closing_Documents		
			FEMA_Standard_Documents		
			Financial		
			FIRM_Documents		

			Justification_and_Waivers		
			National_Objective		
			Procurement		
			Supporting_Documentation		
				EMMIE_Originals	
				Site_Document_Retrieval	

## Folder Content

<b>Correspondence</b>
<ul style="list-style-type: none"> <li>• If available, the GOSR Project Status Form, and PDFs of emails or letters between GOSR and the applicant are included</li> </ul>
<b>Draw Support</b>
<ul style="list-style-type: none"> <li>• Financial and Procurement documentation specifically used to support the funding recommendation on the CDR/PDR</li> </ul>
<b>Environmental</b>
<ul style="list-style-type: none"> <li>• Either a FEMA ERR and ERR Waiver OR a Letter of Exemption is required <ul style="list-style-type: none"> <li>◦ FEMA ERR <ul style="list-style-type: none"> <li>• Adopts FEMA ERR</li> </ul> </li> <li>◦ ERR Waiver (Letter of Acceptance / Adoption) <ul style="list-style-type: none"> <li>• Explains why an ERR is not required</li> </ul> </li> <li>◦ Letter of Exemption</li> </ul> </li> <li>• If available, DEC permits, Army Corp of Engineers Permits, SHPO letters</li> </ul>
<b>FEMA Closing Documents</b>
<ul style="list-style-type: none"> <li>• If available, the FIR and P-4 are included</li> </ul>
<b>FEMA Standard Documents</b>
<ul style="list-style-type: none"> <li>• Required documents include: <ul style="list-style-type: none"> <li>◦ 90-91</li> <li>◦ Signed or unsigned PW</li> <li>◦ Attachments Cover Page</li> <li>◦ Entire Application</li> </ul> </li> <li>• All files should be versioned</li> <li>• Multiples of each document should only be present if there are multiple versions</li> </ul>
<b>Financial</b>
<ul style="list-style-type: none"> <li>• Documentation of costs incurred should be split by document type</li> <li>• Typical files include: <ul style="list-style-type: none"> <li>◦ FEMA Summary Documents <ul style="list-style-type: none"> <li>• FA Materials Summary</li> <li>• FA Equipment Summary</li> <li>• FA Labor Summary</li> <li>• Contract Summary</li> </ul> </li> <li>◦ Financial Management Documents <ul style="list-style-type: none"> <li>• E.g. Invoices, Proof of Payment, DAC, Timesheets, Payroll Policy, Insurance</li> </ul> </li> </ul> </li> </ul>
<b>FIRM Documents</b>
<ul style="list-style-type: none"> <li>• If available, maps and photos of the project location are included</li> </ul>
<b>Justifications and Waivers</b>
<ul style="list-style-type: none"> <li>• A Final Recommendation Memo is required</li> <li>• A Justification Statement is required <ul style="list-style-type: none"> <li>◦ Justification Statement <ul style="list-style-type: none"> <li>• Outlines the rationale for funding</li> <li>• Includes the PW number, applicant name, category of work, HUD eligible activity, and National Objective</li> </ul> </li> </ul> </li> <li>• If project is exempt from Davis Bacon and/or EEO documentation requirements, a Davis Bacon and/or EEO Memo is required <ul style="list-style-type: none"> <li>◦ EEO Memo <ul style="list-style-type: none"> <li>• Explains absence of Civil Rights / Section 3 documentation</li> <li>• The reason outlined in the EEO Memo is applicable to the project (e.g. The exempt reason is the project is 100% FA, then the project 100% FA)</li> </ul> </li> <li>◦ Davis Bacon Memo <ul style="list-style-type: none"> <li>• Explains absence of Davis Bacon documentation</li> <li>• The reason outlined is applicable to the project (e.g. The rationale for exemption is that the project is Category A, then the project Category A)</li> </ul> </li> </ul> </li> </ul>
<b>National Objective</b>
<ul style="list-style-type: none"> <li>• If the project is LMI a memo explaining the National Objective determination and a map of the project location and service area are both required</li> </ul>
<b>Procurement</b>
<ul style="list-style-type: none"> <li>• A procurement policy, applicable at the time of the storm, is required <ul style="list-style-type: none"> <li>◦ If a procurement policy is not applicable at the time of the storm, a justification memo should be present</li> </ul> </li> <li>• If available, the applicant's emergency resolution is included</li> <li>• If applicable, documentation of the entire procurement process is included</li> </ul>
<b>Program Monitoring</b>
<ul style="list-style-type: none"> <li>• If available, the monitoring guide and monitoring letters (2) are included</li> </ul>
<b>Supporting Documentation</b>
<ul style="list-style-type: none"> <li>• All documentation pulled from EMMIE and collected through document retrieval <ul style="list-style-type: none"> <li>◦ Documentation collected during document retrieval will be included in a Site Visit Documentation sub-folder</li> </ul> </li> </ul>

## File Names

Documents must be formatted as **PW\_####(\*)\_Document\_Type**

Files of the same document type should include an enumerated suffix. **PW\_####(\*)\_Document\_Type\_#**

### **Correspondence:**

Board\_Minutes  
Correspondence  
Damage\_Assessment\_Report  
DHSES\_Letter  
Drainage\_Survey  
Engineering\_Reports  
FEMA\_SRLA  
NYSDOS\_Concurrence\_Letter  
Project\_Summary  
Right\_of\_Entry  
SOW\_Change\_Request\_Letter  
Time\_Extension  
GOSR\_Project\_Status\_Update

### **Draw Support:**

See Financial and Procurement folders

### **EMMIE Originals:**

Documentation from EMMIE, named as-is; do not alter the contents of this file

### **Environmental:**

Army\_COE\_Compliance  
Army\_COE\_Permits  
DEC\_Permits  
Environmental\_Review\_Exemption  
ERR\_REC  
ERR\_Waiver  
SHPO - FEMA Project Review  
SHPO\_Response

### **FEMA Closing Documents:**

Closeout\_Request\_Letter  
FEMA\_Acceptance\_Letter  
Final\_Inspection\_Report - Large Project Accounting  
Final\_Review  
P2  
P4\_Submission\_Form  
Progress\_Payment\_and\_Closeout  
Project\_Closeout  
GAR\_Letter

### **FEMA Standard Documents:**

90-91  
90-91(Prior\_Entry)  
Amendment\_Review  
Appeal  
Attachments\_Cover\_Page  
Attachments\_Cover\_Page(Prior\_Entry)  
CEF  
Change\_Request\_Amendment  
Debris\_Removal  
Entire\_Application  
Entire\_Application(Prior\_Entry)  
Hazard\_Mitigation\_Proposal  
Initial\_Review  
Inspection\_Report  
Large\_Project\_Amendment  
Mitigation\_Review  
PNP\_Questionnaire  
PW\_Checklist PW(Prior\_Entry)  
PW\_Signed  
PW\_Unsigned  
Releases  
Repetitive\_Loss\_Statement  
Request\_for\_Public\_Assistance

### **Financial:**

FEMA\_Source\_Rates - verify document is storm appropriate  
Benefit\_Cost\_Analysis  
Contract\_Summary\_Record  
Cost\_Estimate  
Direct\_Administrative\_Costs - same as DAC Report  
Employee\_Payroll\_Data - either FEMA Form or from Applicant  
Force\_Account\_Backup  
Force\_Account\_Backup\_Labor  
Force\_Account\_Backup\_Equipment  
Force\_Account\_Equipment  
Force\_Account\_Equipment\_Inventory  
Force\_Account\_Labor  
Force\_Account\_Materials  
Fringe\_Benefit\_Calculations  
Historical\_Pricing  
Invoices  
Invoices\_and\_Proof\_of\_Payment  
Load\_Tickets  
Payroll\_Policy  
Payroll\_Reports - from Applicant  
Project\_Budget  
Proof\_of\_Payment  
Purchase\_Orders  
Timesheets  
Insurance\_Policy  
Insurance\_Review  
Vouchers

### **FIRM Documents:**

8\_Step\_Floodplain\_Mgmt  
Calculations  
Firmettes  
Floorplan  
M s  
Maps\_and\_Firmettes  
Panel  
Photos

### **Justifications and Waivers:**

Justification\_Statement Pay\_Package  
EEO\_Documentation\_Waiver  
DB\_Exemption  
Recommendation\_Memo

### **National Objective:**

NO\_Determination\_Memo  
Residential\_Status\_Map  
Service\_Area\_Map

### **Procurement:**

Advertisements  
Agreements  
Bids  
Contracts  
Emergency\_Declaration - SOE, Proclamation, Emergency Order  
Manuals  
Procurement\_Policy  
Proposals - quotes, contractor estimates  
Purchasing\_Policy  
Resolutions  
Summary\_of\_Bids

### **Program Monitoring:**

Monitoring\_Guide  
Monitoring\_Notification\_Letter  
Monitoring\_Results\_Letter

### **Site Document Retrieval:**

Documentation from site visit; do not alter the contents of this folder

### **Supporting Documents:**

See EMMIE Originals and Site Document Retrieval folders



## Appendix 11 – HMGP Global Match Strategy Approval Letters



NEW YORK STATE  
DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES

Kathy Hochul, Governor

Jerome M. Hauer, Ph.D., MHS, Commissioner

June 24, 2014

Mr. Jerome Hatfield, Regional Administrator  
Federal Emergency Management Agency, Region 2 Jacob K. Javits Federal Office Building  
26 Federal Plaza, Room 1311  
New York, New York 10278-0002

Dear Administrator Hatfield:

As you may know, leadership and staff from the Governor's Office of Storm Recovery (GOSR), the New York State Division of Homeland Security and Emergency Services (DHSES), FEMA's Hazard Mitigation staff from Region 2, the Sandy Recovery Field Office (SRO) and FEMA headquarters have been working closely on the implementation of the State Hazard Mitigation Program (HMGP). These discussions have been productive and helpful. I am writing today to inform you of a consensus revision to New York State's HMGP grant cycles for DRs 1957, 1993, 4020 and 4031 which will allow New York State to meet its match obligation and achieve a global match strategy for these four disasters.

In letters dated May 20 and 23, 2014, DHSES and GOSR described to FEMA a proposed plan and the projects identified to meet the State's match obligation using a global match strategy for these four disasters by providing project level detail on a previously submitted application for NYS Homes and Community Renewal. This proposal included adding additional acquisitions in upstate New York, including the Mohawk Valley region and the Village of Sidney, and several HMGP infrastructure projects. On further review, these infrastructure projects may fall beyond the scope of the NYSI ICR applications 4020-0063 and 4031-0025 which had laid out a program of acquisitions for storm-affected communities in New York State.

---

1220 Washington Avenue, State Office Building Campus  
Building 7A, Suite 710  
Albany, NY 12242

The Delaware County acquisitions (Priority 1) located in the Village of Sidney, were listed as part of our strategy in the May 20, 2014 letter and remain a key part of this plan. The Suffolk acquisitions shown by zip code (Priority 2) provide sufficient non-Federal match share to replace the infrastructure projects in our May 20 letter. The Richmond acquisitions (Priority 3) are included to demonstrate that GOSR has additional global match capacity, if needed, to meet the match requirement for these four disasters. All three priority groups are well within the scope of work and geographies defined by the 4020-0063 and 4031-0025 LOIs and applications. The infrastructure projects previously noted in our May 20 letter will now be pursued under 4085 Superstorm Sandy HMGP.

The State will ensure that these projects are eligible for both HMGP and CDBG-DR funding and that all relevant FEMA and HUD requirements are met, including deed restrictions on acquired property for permanent open space preservation. DHSES and GOSR will continue to work closely with FEMA to coordinate and streamline environmental review for these acquisitions. The global match strategy shown below will permit other Irene-Lee acquisitions to proceed with funding using 100% FEMA HMGP funds as homeowners and communities are acutely eager to close on properties. This process will also provide efficiencies in application and project administration, avoiding eligibility concerns and allowing the State to move more quickly to assist recovering communities.

Area of Acquisitions (Zip Code)	Number of Properties	Est. Total Cost
Priority 1: Delaware County		
Sidney (13838)	73	\$ 8,504,267
Priority 2: Suffolk County		
Lindenhurst (11757)	220	\$ 23,615,000
Oakdale (11769)	24	\$ 6,895,000
Riverhead (11901)	133	\$ 7,645,000
Mastic Beach (11951)	99	\$ 3,970,500
Priority 3: Richmond County		
Staten Island (10305)	296	\$ 48,729,000
Staten Island (10306)	213	\$ 46,933,500
<b>MAXIMUM POTENTIAL GLOBAL MATCH</b>		<b>\$ 146,292,267</b>
Estimated Combined Match Requirement for DRs 4020, 4031, 1957 and 1993	\$ 45,000,000	

As shown in the table above, the State has the potential to over-match the DRs 4020 and 4031. We have included this buffer to address potential changes that may occur as these and other applications are developed. Once the match needs for these disasters have been met, the State may pursue the remaining acquisitions separately as part of the DR #4085 global match strategy. DHSES and GOSR commit to continuing to work with FEMA to confirm that the State has met its match obligations.

DHSES and GOSR understand that the State must revisit some aspects of the program , including revising community acquisition budgets from 75% to 100% and updating the HMGP Administrative Plan which FEMA approved on September 7, 2012. We are also working with ' the Division of the Budget to discuss streamlined contracting procedures. We understand that FEMA is also continuing to explore options associated with projects already funded through DRs 1957 and 1993.

Sincerely,



Andrew X. Feeney  
Deputy Commissioner for Special Programs &  
Alternate Governor's Authorized Representative

cc: Michael Audin  
Franki Coons  
Matthew Goldstein  
Rick Lord  
Bill McDonnell  
Mike Moriarty  
Jamie Rubin  
Sarah Tippens  
Robert Tranter  
Kris Van Orsdel  
Roy Wright



NEW YORK STATE  
DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES

Kathy Hochul, Governor

Jerome M. Hauer, Ph.D., MHS, Commissioner

July 1, 2014

Mr. Jerome Hatfield, Regional Administrator  
Federal Emergency Management Agency, Region 2  
Jacob K. Javits Federal Office Building  
26 Federal Plaza, Room 1311  
New York, New York 10278-0002

Ms. Laura Phillips  
Director, Sandy Recovery Office (SRO)  
118-35 Queens Boulevard, 11th Floor  
Forest Hills, NY 11375

Dear Administrator Hatfield and Director Phillips:

As you know, leadership and staff from the Governor's Office of Storm Recovery (GOSR), the New York State Division of Homeland Security and Emergency Services (DHSES), FEMA's Hazard Mitigation staff from Region 2, the Sandy Recovery Field Office (SRO) and the Washington, D.C. headquarters have been working closely on the implementation of the State's Hazard Mitigation Program. These discussions have been very productive and extremely helpful. I am writing today to inform you of a consensus revision to New York State's HMGP grant cycle for DR 4085 which will allow New York State to meet its non-federal match obligation and achieve a "global match" strategy for Superstorm Sandy.

In letters dated May 20, May 23, and June 24, 2014, DHSES and GOSR described to FEMA a proposed plan and the projects identified to meet the State's non-federal match obligation for DRs 4020, 4031, 1957 and 1993. Using a global match strategy for these four disasters the State developed a program of acquisitions for storm-affected communities in New York State. For DR 4085, DHSES and GOSR propose a combination of acquisitions and infrastructure projects in storm-affected counties to meet the non-federal match obligation for Sandy. Several projects, including the Bridge Mitigation Program, Spring Creek Phase 2 and Acquisitions will be overmatched or fully funded using New York State's allocation of United States Housing and Urban Development Department's (HUD) Community Development Block Grant Disaster Recovery (CDBG-DR) funds. Other projects, including several sponsored by the City of New York and major State authorities, will have non-Federal matching funds provided directly by the applicant. In total, these actions will allow the State to meet its non-federal match requirements for DR 4085.

The State will ensure that all projects being used as part of the global match strategy are eligible for both HMGP and CDBG-DR funding and that all relevant FEMA and HUD requirements are met, including deed-restrictions on acquired property for permanent open space preservation. DHSES and GOSR will continue to work closely with FEMA to coordinate and streamline the environmental review for these acquisitions. GOSR and DHSES will also demonstrate to FEMA how it plans to track and manage payments that meet the match obligation. The global match strategy shown in the table below will allow other Superstorm Sandy projects to be funded using 100% FEMA HMGP funds. This process will provide efficiencies in application and project administration, reduce the amount of paperwork between funding sources, avoid eligibility issues, and allow the State to move more quickly to assist recovering communities. The table below identifies generally projects for the global match acquisitions, infrastructure projects, and other non-GOSR match sources that support the State's global match strategy.

Project Name	Non-Federal Match Source	Max. Potential Match Credit	DR-4085 HMGP Application #
Richmond, Suffolk and Nassau County Acquisitions	GOSR	\$150,000,000	TBD
Bridge Mitigation Program (94 CDBG-DR eligible bridges)	GOSR	\$484,145,990	1210
Spring Creek (Phase 2)	GOSR	\$48,310,090	1803
Likely Non-GOSR Match Contributions	NYC & Others	\$73,893,328	
NYC		\$48,626,133	
26th Ward WWTP, Brooklyn	NYC	\$947,500	416
BREEZY POINT RISK MITIGATION SYSTEMS/Breezy Point Dune System	NYC	\$14,535,579	705
Metropolitan Hospital Center (Pre-Connections for Critical Systems)	NYC	\$515,500	547
Public Housing Complexes - Back-up Power	NYC	\$11,604,000	1647
Coney Island Hospital Center (Pre-Connections for Critical Systems)	NYC	\$174,750	735
Back Up Power for Nursing Homes and ACFs	NYC	\$4,790,054	856
Emergency Power for 60 Critical Schools	NYC	\$3,558,750	1792
Red Hook Flood Barrier	NYC	\$12,500,000	TBD
Other Applicants		\$25,267,195	
LaGuardia Airport Flood Control	PANYNJ	\$9,350,000	825
Upgrade Pavement Subgrade at Howland Hook Container Terminal	PANYNJ	\$1,556,512	2226
Installation of Tide Gates/Drainage Check Valves at JFK Airport	PANYNJ	\$863,333	1780
Verrazano-Narrows Bridge Service Building (Technology Back-up Center)	MTA	\$2,308,450	TBD
Staten Island University Hospital	North Shore-LIJ	\$11,188,900	TBD
<b>MAXIMUM POTENTIAL GLOBAL MATCH</b>		<b>\$756,349,408</b>	
<b>Non-Federal Match Requirement for DR 4085</b>		<b>\$307,882,464</b>	

As shown in the table above, the State has the potential to over-match DR 4085. We have included this additional buffer to address potential changes that may occur as these and other applications are developed and executed. DHSES and GOSR commit to working with FEMA to ensure that the State has met its non-federal match obligations. Please note that the Acquisitions and Bridge Mitigation



NEW YORK STATE  
DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES

Kathy Hochul, Governor

Jerome M. Hauer, Ph.D., MHS, Commissioner

Program figures shown above represent our current estimates of the maximum potential nonfederal match available from these projects for DR 4085 HMGP. Actual figures will likely be different and will be continually updated as the program continues to develop.

DHSES and GOSR understand that the State must revisit some aspects of the program, including revising community acquisition budgets from 75% to 100% and updating the HMGP Administrative Plan which FEMA approved on September 7, 2012. We are also working with the Division of the Budget to discuss streamlining our contracting procedures. Finally GOSR will provide grant consultants with expertise in developing HUD CDBG-DR and FEMA HMGP projects to applicants and implementing agencies as needed to ensure compliance with all FEMA and HUD (where appropriate) regulations. Our agencies will also track and document Federal and non-federal match spending throughout the program to display our progress in managing the global match strategy and meeting the milestones set out in our recent six-month extension.

Sincerely,

Jerome M. Hauer, Ph.D., MHS, Commissioner  
Alternate Governor's Authorized Representative

cc:

Michael Audin  
Franki Coons  
Matthew Goldstein  
Casey Levy  
Rick Lord  
Bill McDonnell  
Mike Moriarty  
Jamie Rubin  
Sarah Tippens  
Robert Tranter  
Roy Wright  
Kris Van Orsdel

July 7, 2014

September 9, 2021



Margaret N. Becker  
Deputy Comptroller  
Division of Contracts and Expenditures  
Office of the State Comptroller  
110 State Street  
Albany, NY 12236

Dear Ms. Becker:

The Governor's Office of Storm Recovery (GOSR) was tasked by Governor Andrew Cuomo with coordinating and assisting communities that were impacted by Hurricane Irene, Tropical Storm Lee and Superstorm Sandy as they recover from these three disasters. In addition, GOSR was charged with programming New York State's allocation of United States Housing and Urban Development (HUD) Community Development Block Grant Disaster Recovery (CDBG-DR) funds to address recovery needs.

One aspect of GOSR's ongoing work has been to use CDBG-DR funds as non-Federal match for Federal grant programs which require a local cost share. This includes Federal Emergency Management Agency (FEMA) Hazard Mitigation Grant Program (HMGP), which typically provides 75% of the funding for eligible mitigation and resiliency projects while requiring the final 25% contribution as a non-Federal match.

We are writing to inform the Comptroller's office that following conversations with FEMA staff in Washington D.C., the Sandy Recovery Field Office, and Region II, the State will meet its match obligation through the use of a Global Match scenario, in which several HMGP-eligible projects will be paid for with 100% CDBG-DR dollars. GOSR will ensure that these projects are eligible for both HMGP and CDBG-DR funding and that all relevant FEMA and HUD requirements are met. This strategy will permit other projects to be funded using 100% HMGP, providing efficiencies in application and project administration, avoiding eligibility issues, and allowing the State to move more quickly to assist recovering communities.

To define this strategy and allow FEMA to provide comments, GOSR and DHSES have drafted and submitted the two letters attached (one regarding the Irene/Lee match strategy, and the other for Superstorm Sandy). However, FEMA staff has made it known to us on several occasions that these letters or subsequent approvals are not required for the State to begin pursuing this strategy. Instead, FEMA has expressed that the State may obligate funding for individual projects at levels other than the 75%/25% share, so long as DHSES and GOSR can show that at the full allocation level the non-Federal match will be no less than 25%.

As such, GOSR has reached a joint agreement with the Division of the Budget and DHSES to immediately employ this strategy, beginning with the Irene/Lee Home Buyout Program. Under this Program, a total of \$188 million has been awarded for a series of FEMA-approved projects and acquisitions, of which the non-Federal share is approximately \$46 million. DHSES will begin making payments to recipients of these awards, first using 100% HMGP funding. Payments for the projects selected to receive 100% CDBG funding will follow shortly. A similar process is expected to launch for the Sandy Buyout Program within a few weeks.

Thank you for your attention to this matter.

Sincerely,

James Rubin  
Director  
Governor's Office of Storm Recovery

Attached: Irene/Lee Global Match Letter to FEMA; Sandy Global Match Letter to FEMA

Cc: Susan Knapp, Mike Perrin, Andrew Feeney, Rick Lord, Kris van Orsdel, Matt Goldstein



NEW YORK STATE  
DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES

Kathy Hochul, Governor

Jerome M. Hauer, Ph.D., MHS, Commissioner

September 10, 2014

Mr. Jerome Hatfield, Regional Administrator  
Federal Emergency Management Agency, Region 2  
Jacob K. Javits Federal Office Building  
26 Federal Plaza, Room 1311  
New York, New York 10278-0002

Ms. aura Phillips  
Director, Sandy Recovery Office (SRO)  
118-35 Queens Boulevard, 11th Floor  
Forest Hills, NY 11375

Dear Administrator Hatfield and Director Phillips:

Re: Global match request for property closings

In numerous letters over the past few months, the Governor's Office of Storm Recovery (GOSR) and the New York State Division of Homeland Security and Emergency Services (DHSES) have described to FEMA a plan to meet the State's non-federal match obligation using a global match strategy for five Hazard Mitigation Grant Program (HMGP) cycles. These acquisitions for deed-restricted open space in storm-affected communities in New York State are currently proposed for 4085 (Superstorm Sandy), 4020 (Hurricane Irene), 4031 (Tropical Storm Lee), 1993 and 1957. These acquisitions (GOSR or \$0 HMGP Buyouts) are to be fully funded using New York State's allocation of U.S. Housing and Urban Development Department's (HUD) Community Development Block Grant Disaster Recovery (CDBG-DR) funds.

We are writing to obtain FEMA concurrence that the "activity" of acquiring properties submitted for cost share as part of Global Match strategy is an *eligible pre-award activity* associated with the HMGP costshare application that includes these properties. The State's position, as interpreted in consultation with FEMA from 44 CFR Sections 206.439 (c), 80.9 (a) and 80.9 (b), is that the "activity" of acquisition is an eligible pre-award administrative action, and that property acquisition remains potentially eligible for HMGP until site demolition and clearance begin as "implementation is initiated." Based on this interpretation, many properties in the GOSR Buyout program which have already been acquired but have not yet undergone demolition would remain eligible for HMGP and for the global match strategy until such time as any physical work begins. (This is also consistent with FEMA's environmental review policies: Programmatic Agreements progressed under the National Historic Preservation Act of 1966 also define property acquisition without demolition as an activity that may occur without review by the State Historic Preservation Office (SHPO) or the Advisory Council on Historic Preservation because acquisition has no effect on the natural or built environment).

All properties in the GOSR Buyouts program will have undergone a HUD eligibility review and must still undergo a FEMA eligibility and environmental review. GOSR and DHSES acknowledge that some properties may be determined ineligible for global match based on that review. Structures at which demolition or other physical work has begun will not be submitted for FEMA consideration unless we feel there are extenuating circumstances warranting discussion.

September 9, 2021

Page 167 of 195

GOSR has already identified approximately 245 acquisition properties which meet eligibility criteria and account for over \$112 million in additional non-federal match. A draft listing of the properties under consideration for this program is included as an attachment to this letter. This list represents the maximum potential universe of applicable properties at this time and is subject to reduction as dictated by eligibility reviews, demolition schedules and other considerations which will be agreed to with FEMA Headquarters, FEMA Region II and FEMA's Sandy Recovery Office (SRO) upon concurrence with this strategy. (GOSR advises that future acquisition property applications are not expected to require pre-award approval and will be submitted for FEMA review prior to closing, with sufficient time to conduct required reviews).

DHSES and GOSR will submit a complete application for these properties at a zero federal dollar cost share along with all pertinent data for FEMA's review. GOSR will continue to collaborate with DHSES and FEMA to coordinate and streamline the FEMA review process for these properties. We request that FEMA identify for GOSR and DHSES any additional information requirements for its review process that may exceed the HUD review so we can expedite delivery of that data to FEMA. We look forward to your quick concurrence with this endeavor so that together we can continue to move forward with New York State's recovery.

Sincerely,



Andrew X. Feeney  
Deputy Commissioner for Special Programs Alternate  
Governor's Authorized Representative

cc: Jamie Rubin  
Franki Coons  
Mike Moriarty  
Robert Tranter  
Michael Audin

## HMGP Global Match Pre-Demolition Buyout List Oct. 2013-June 2014

Parcel ID	Address	Town/State/Zip	Appraised Value	Appraised Value + Est Project Costs	Offer Amount	Closing Date
OBB0-107	85 Foxbeach Ave	Staten Island, NY 10306	\$380,000.00	\$430,000.00	\$299,893.25	10/7/2013
OBB0-005a	119 Foxbeach Ave	Staten Island, NY 10306	\$400,000.00	\$450,000.00	\$256,473.73	10/17/2013
OBB0-028	97 Foxbeach Ave	Staten Island, NY 10306	\$425,000.00	\$475,000.00	\$350,774.73	10/17/2013
OBB0-036	112 Foxbeach Ave	Staten Island, NY 10306	\$375,000.00	\$425,000.00	\$169,935.73	10/17/2013
OBB0081a	175 Foxbeach Ave	Staten Island, NY 10306	\$340,000.00	\$390,000.00	\$259,101.23	10/17/2013
OBB0-085	70 Tarlton St	Staten Island, NY 10306	\$230,000.00	\$280,000.00	\$230,000.00	10/17/2013
OBB0-006	87 Foxbeach Ave	Staten Island, NY 10306	\$200,000.00	\$250,000.00	\$200,000.00	10/24/2013
OBB0-014	134 Fox Ln	Staten Island, NY 10306	\$450,000.00	\$500,000.00	\$450,000.00	10/24/2013
OBB0-106	140 Foxbeach Ave	Staten Island, NY 10306	\$250,000.00	\$300,000.00	\$98,000.00	10/24/2013
OBB0-143	82 Tarlton St	Staten Island, NY 10306	\$410,000.00	\$460,000.00	\$368,972.56	10/24/2013
OBB0-144	50 Foxbeach Ave	Staten Island, NY 10306	\$210,000.00	\$260,000.00	\$166,666.41	10/24/2013
OBB0-037	66 Foxbeach Ave	Staten Island, NY 10306	\$335,000.00	\$385,000.00	\$318,609.67	10/31/2013
OBB0-096	118 Foxbeach Ave	Staten Island, NY 10306	\$465,000.00	\$515,000.00	\$465,000.00	10/31/2013
OBB0-118	77 Foxbeach Ave	Staten Island, NY 10306	\$330,000.00	\$380,000.00	\$134,295.32	10/31/2013
OBB0-049	24 Kissam Ave	Staten Island, NY 10306	\$210,000.00	\$260,000.00	\$181,697.97	11/6/2013
OBB0-009a	17 Fox Beach Ave	Staten Island, NY 10306	\$490,000.00	\$540,000.00	\$406,110.73	11/7/2013
OBB0-029	586 Mill Rd	Staten Island, NY 10306	\$328,000.00	\$378,000.00	\$180,359.36	11/7/2013
OBB0-053	88 Foxbeach Ave	Staten Island, NY 10306	\$270,000.00	\$320,000.00	\$224,244.25	11/7/2013
OBB0-056	105 Tarlton St	Staten Island, NY 10306	\$365,000.00	\$415,000.00	\$365,000.00	11/7/2013
OBB0-058	107 Foxbeach Ave	Staten Island, NY 10306	\$200,000.00	\$250,000.00	\$181,400.89	11/7/2013
OBB0-088	169A Foxbeach Ave	Staten Island, NY 10306	\$445,000.00	\$495,000.00	\$445,000.00	11/7/2013
OBB0-008	117 Foxbeach Ave	Staten Island, NY 10306	\$380,000.00	\$430,000.00	\$285,789.32	11/14/2013
OBB0-015	226 Fox Ln	Staten Island, NY 10306	\$260,000.00	\$310,000.00	\$193,798.38	11/14/2013
OBB0-024	495 Promenade Ave	Staten Island, NY 10306	\$276,000.00	\$326,000.00	\$116,627.93	11/14/2013
OBB0-027	92 Foxbeach Ave	Staten Island, NY 10306	\$310,000.00	\$360,000.00	\$246,335.90	11/14/2013
OBB0-047	84-86 Foxbeach Ave	Staten Island, NY 10306	\$600,000.00	\$650,000.00	\$540,362.42	11/14/2013
OBB0-062	80 Foxbeach Ave	Staten Island, NY 10306	\$420,000.00	\$470,000.00	\$416,317.70	11/14/2013
OBB0-084	42 Tarlton St	Staten Island, NY 10306	\$360,000.00	\$410,000.00	\$300,641.91	11/14/2013
OBB0-120a	45 Foxbeach Ave	Staten Island, NY 10306	\$975,000.00	\$1,025,000.00	\$744,256.68	11/14/2013
OBB0-022a	51 Foxbeach Ave	Staten Island, NY 10306	\$300,000.00	\$350,000.00	\$217,578.30	11/15/2013
OBB0-104	47 Tarlton St	Staten Island, NY 10306	\$380,000.00	\$430,000.00	\$337,902.21	11/15/2013
OBB0-087	92 Tarlton St	Staten Island, NY 10306	\$210,000.00	\$260,000.00	\$155,319.27	11/20/2013

Page 3 of 9

OB80-108	18 Kissam Ave	Staten Island, NY 10306	\$225,000.00	\$275,000.00	\$88,937.39	11/20/2013
OB80-116	72 Foxbeach Ave	Staten Island, NY 10306	\$430,000.00	\$480,000.00	\$31,000.00	11/20/2013 OB80-
003	588 Mill Rd	Staten Island, NY 10306	\$255,000.00	\$305,000.00	\$134,550.40	11/21/2013
OB80-007	93 Foxbeach Ave	Staten Island, NY 10306	\$285,000.00	\$335,000.00	\$28,000.00	11/21/2013 OB80-
032a	48 Foxbeach Ave	Staten Island, NY 10306	\$925,000.00	\$975,000.00	\$66,469.28	11/21/2013 OB80-
044	93 Kissam Ave	Staten Island, NY 10306	\$250,000.00	\$300,000.00	\$78,175.98	11/21/2013
OB80-089	62 Tarlton St	Staten Island, NY 10306	\$270,000.00	\$320,000.00	\$135,474.88	11/21/2013
OB80-094	110 Tarlton St	Staten Island, NY 10306	\$260,000.00	\$310,000.00	\$255,007.86	11/21/2013 OB80-
145	138 Fox Ln	Staten Island, NY 10306	\$375,000.00	\$425,000.00	\$332,264.77	11/21/2013 OB80-
102	475 Promenade Ave	Staten Island, NY 10306	\$410,000.00	\$460,000.00	\$41,000.00	11/25/2013 OB80-
345	593 Mill Rd	Staten Island, NY 10306	\$350,000.00	\$400,000.00	\$350,000.00	11/26/2013 OB80-
346	595 Mill Rd	Staten Island, NY 10306	\$365,000.00	\$415,000.00	\$365,000.00	11/26/2013 OB80-
348	599 Mill Rd	Staten Island, NY 10306	\$395,000.00	\$445,000.00	\$395,000.00	11/26/2013 OB80-
349	16 Carmella Ct	Staten Island, NY 10306	\$38,000.00	\$43,000.00	\$38,000.00	11/26/2013
OB80-350	17 Carmella Ct	Staten Island, NY 10306	\$350,000.00	\$40,000.00	\$350,000.00	11/26/2013
OB80-351	23 Carmella Ct	Staten Island, NY 10306	\$35,000.00	\$40,000.00	\$35,000.00	11/26/2013
OB80-352	25 Carmella Ct	Staten Island, NY 10306	\$38,000.00	\$43,000.00	\$38,000.00	11/26/2013
OB80-353	605 Mill Rd	Staten Island, NY 10306	\$430,000.00	\$48,000.00	\$430,000.00	11/26/2013
OB80-354	607 Mill Rd	Staten Island, NY 10306	\$410,000.00	\$460,000.00	\$41,000.00	11/26/2013 OB80-
355	609 Mill Rd	Staten Island, NY 10306	\$355,000.00	\$40,000.00	\$355,000.00	11/26/2013 OB80-
356	611 Mill Rd	Staten Island, NY 10306	\$36,000.00	\$41,000.00	\$36,000.00	11/26/2013
OB80-357	615 Mill Rd	Staten Island, NY 10306	\$36,000.00	\$41,000.00	\$36,000.00	11/26/2013
OB80-001	115 Kissam Ave	Staten Island, NY 10306	\$43,000.00	\$48,000.00	\$185,654.92	12/2/2013
OB80-159	39 Foxbeach Ave	Staten Island, NY 10306	\$400,000.00	\$45,000.00	\$262,718.62	12/2/2013
OB80-245	683 Mill Rd	Staten Island, NY 10306	\$47,000.00	\$52,000.00	\$468,019.69	12/2/2013
OB80-256	39 Delwit Ave	Staten Island, NY 10306	\$42,000.00	\$47,000.00	\$420,000.00	12/3/2013
OB80-025a	106 Fox Ln	Staten Island, NY 10306	\$36,000.00	\$41,000.00	\$278,671.53	12/4/2013
OB80-097	99 Foxbeach Ave	Staten Island, NY 10306	\$32,000.00	\$37,000.00	\$249,472.09	12/11/2013
OB80-163	169B Foxbeach Ave	Staten Island, NY 10306	\$495,000.00	\$545,000.00	\$469,394.25	12/12/2013
OB80-018	31 Kissam Ave	Staten Island, NY 10306	\$24,000.00	\$29,000.00	\$90,820.23	12/13/2013
OB80-033	89 Foxbeach Ave	Staten Island, NY 10306	\$220,000.00	\$27,000.00	\$136,673.34	12/13/2013
OB80-051	154 Foxbeach Ave	Staten Island, NY 10306	\$62,000.00	\$67,000.00	\$510,339.72	12/13/2013
OB80-048	477 Promenade Ave	Staten Island, NY 10306	\$390,000.00	\$440,000.00	\$370,286.38	12/16/2013
OB80-040	173 Foxbeach Ave	Staten Island, NY 10306	\$265,000.00	\$31,000.00	\$265,000.00	12/19/2013
OB80-041	153 Foxbeach Ave	Staten Island, NY 10306	\$325,000.00	\$375,000.00	\$325,000.00	12/19/2013
OB80-057	26 Kissam Ave	Staten Island, NY 10306	\$21,000.00	\$26,000.00	\$110,800.00	12/19/2013
OB80-111	633 Cedar Grove Ave	Staten Island, NY 10306	\$82,000.00	\$87,000.00	\$806,031.09	12/19/2013

Page 4 of 9



OBB0-151	58 Tarlton St	Staten Island, NY 10306	\$670,000.00	\$720,000.00	\$667,062.98	12/19/2013	OBB0-
157	592 Mill Rd	Staten Island, NY 10306	\$440,000.00	\$490,000.00	\$440,000.00	12/19/2013	OBB0-
017a	49 Foxbeach Ave	Staten Island, NY 10306	\$420,000.00	\$470,000.00	\$415,619.75	12/20/2013	OBB0-
075	20 Kissam Ave	Staten Island, NY 10306	\$300,000.00	\$350,000.00	\$277,604.74	12/20/2013	OBB0-
126	163A Foxbeach Ave	Staten Island, NY 10306	\$535,000.00	\$585,000.00	\$531,147.77	12/20/2013	OBB0-
149	3 Kissam Ave	Staten Island, NY 10306	\$430,000.00	\$480,000.00	\$418,973.34	12/20/2013	OBB0-
182	151 Foxbeach Ave	Staten Island, NY 10306	\$540,000.00	\$590,000.00	\$540,000.00	12/20/2013	
OBB0-315	622 Riga St	Staten Island, NY 10306	\$425,000.00	\$475,000.00	\$330,061.96	12/20/2013	OBB0-
432a	112 Fox Ln	Staten Island, NY 10306	\$240,000.00	\$290,000.00	\$202,227.46	12/20/2013	OBB0-
070	627 Cedar Grove Ave	Staten Island, NY 10306	\$740,000.00	\$790,000.00	\$728,797.86	12/27/2013	OBB0-
080	479 Promenade Ave	Staten Island, NY 10306	\$395,000.00	\$445,000.00	\$347,149.72	12/31/2013	OBB0-
083a	118 Tarlton St	Staten Island, NY 10306	\$410,000.00	\$460,000.00	\$366,397.69	12/31/2013	OBB0-
109	54 Tarlton St	Staten Island, NY 10306	\$410,000.00	\$460,000.00	\$405,473.79	12/31/2013	OBB0-
130	66 Tarlton St	Staten Island, NY 10306	\$360,000.00	\$410,000.00	\$321,254.19	12/31/2013	OBB0-
141	107 Tarlton St	Staten Island, NY 10306	\$415,000.00	\$465,000.00	\$415,000.00	12/31/2013	OBB0-
004	103 Kissam Ave	Staten Island, NY 10306	\$610,000.00	\$660,000.00	\$290,500.00	1/2/2014	
OBB0-026a	51 Kissam Ave	Staten Island, NY 10306	\$480,000.00	\$530,000.00	\$404,424.94	1/2/2014	
OBB0-043a	128 Foxbeach Ave	Staten Island, NY 10306	\$420,000.00	\$470,000.00	\$267,011.29	1/2/2014	
OBB0-064	221 Fox Ln	Staten Island, NY 10306	\$345,000.00	\$395,000.00	\$223,064.33	1/2/2014	
OBB0-113	233 Fox Ln	Staten Island, NY 10306	\$310,000.00	\$360,000.00	\$249,581.75	1/2/2014	
OBB0-129	32 Kissam Ave	Staten Island, NY 10306	\$345,000.00	\$395,000.00	\$150,138.19	1/2/2014	
OBB0-060	45 Tarlton St	Staten Island, NY 10306	\$370,000.00	\$420,000.00	\$292,956.39	1/7/2014	
OBB0-320	151 Dugdale St	Staten Island, NY 10306	\$725,000.00	\$775,000.00	\$721,626.53	1/8/2014	
OBB0-362	589 Riga St	Staten Island, NY 10306	\$450,000.00	\$500,000.00	\$444,646.42	1/8/2014	
OBB0-257	41 Delwit Ave	Staten Island, NY 10306	\$405,000.00	\$455,000.00	\$391,334.74	1/9/2014	
OBB0-294	524 Merkel Pl	Staten Island, NY 10306	\$440,000.00	\$490,000.00	\$424,334.39	1/9/2014	
OBB0-316	610 Riga St	Staten Island, NY 10306	\$410,000.00	\$460,000.00	\$410,000.00	1/9/2014	
OBB0-331	574 Riga St	Staten Island, NY 10306	\$410,000.00	\$460,000.00	\$410,000.00	1/9/2014	
OBB0-023	106 Foxbeach Ave	Staten Island, NY 10306	\$420,000.00	\$470,000.00	\$303,272.90	1/10/2014	
OBB0-077	59 Tarlton St	Staten Island, NY 10306	\$425,000.00	\$475,000.00	\$423,230.22	1/10/2014	
OBB0-114	641 Cedar Grove Ave	Staten Island, NY 10306	\$350,000.00	\$400,000.00	\$289,708.84	1/10/2014	OBB0-
281	673 Mill Rd	Staten Island, NY 10306	\$415,000.00	\$465,000.00	\$407,397.56	1/10/2014	OBB0-
131	1638 Foxbeach Ave	Staten Island, NY 10306	\$445,000.00	\$495,000.00	\$413,858.31	1/16/2014	OBB0-
010	96 Foxbeach Ave	Staten Island, NY 10306	\$251,000.00	\$301,000.00	\$156,315.67	1/27/2014	OBB0-
020	114 Kissam Ave	Staten Island, NY 10306	\$380,000.00	\$430,000.00	\$194,750.00	1/27/2014	
OBB0-121	120 Foxbeach Ave	Staten Island, NY 10306	\$440,000.00	\$490,000.00	\$269,201.70	1/27/2014	
OBB0-179	120 Fox Ln	Staten Island, NY 10306	\$120,000.00	\$170,000.00	\$120,000.00	1/27/2014	

Page 5 of 9

OBBO-086	86 Tarlton St	Staten Island, NY 10306	\$410,000.00	\$460,000.00	\$410,000.00	1/28/2014
OBBO-180	70 Kissam Ave	Staten Island, NY 10306	\$310,000.00	\$360,000.00	\$240,000.00	1/28/2014
OBBO-030	472 Mill Rd	Staten Island, NY 10306	\$390,000.00	\$440,000.00	\$390,000.00	1/29/2014
OBBO-160	645 Cedar Grove Ave	Staten Island, NY 10306	\$375,000.00	\$425,000.00	\$375,000.00	1/29/2014
OBBO-011	69 Kissam Ave	Staten Island, NY 10306	\$425,000.00	\$475,000.00	\$360,134.34	1/30/2014
OBBO-066	48 Tarlton St	Staten Island, NY 10306	\$410,000.00	\$460,000.00	\$395,74.56	1/31/2014
OBBO-264	54 Delwit Ave	Staten Island, NY 10306	\$450,000.00	\$500,000.00	\$428,894.84	1/31/2014
OBBO-297	144 Dugdale St	Staten Island, NY 10306	\$450,000.00	\$500,000.00	\$450,000.00	1/31/2014
OBBO-112	165 Foxbeach Ave	Staten Island, NY 10306	\$475,000.00	\$525,000.00	\$456,785.3	2/3/2014
OBBO-181	96 Fox Ln	Staten Island, NY 10306	\$270,000.00	\$320,000.00	\$141,289.35	2/5/2014
OBBO-132	45 Kissam Ave	Staten Island, NY 10306	\$370,000.00	\$420,000.00	\$330,850.00	2/6/2014
OBBO-002	133 Foxbeach Ave	Staten Island, NY 10306	\$700,000.00	\$750,000.00	\$399,823.01	2/10/2014
OBBO-152	16 Kissam Ave	Staten Island, NY 10306	\$256,000.00	\$306,000.00	\$202,493.0	2/10/2014
OBBO-252	27 Delwit Ave	Staten Island, NY 10306	\$435,000.00	\$485,000.00	\$424,744.00	2/10/2014
OBBO-307	527 Merkel Pl	Staten Island, NY 10306	\$450,000.00	\$500,000.00	\$450,000.00	2/10/2014
OBBO-042a	9 Kissam Ave	Staten Island, NY 10306	\$320,000.00	\$370,000.00	\$320,000.00	2/11/2014
OBBO-065	78 Foxbeach Ave	Staten Island, NY 10306	\$415,000.00	\$465,000.00	\$400,311.54	2/11/2014
OBBO-059	129 Foxbeach Ave	Staten Island, NY 10306	\$460,000.00	\$510,000.00	\$355,865.99	2/12/2014
OBBO-061a	90 Foxbeach Ave	Staten Island, NY 10306	\$320,000.00	\$370,000.00	\$174,54.01	2/12/2014
OBBO-247	17 Delwit Ave	Staten Island, NY 10306	\$510,000.00	\$560,000.00	\$496,85.14	2/12/2014
OBBO-271	500 Fairbanks Ave	Staten Island, NY 10306	\$585,000.00	\$635,000.00	\$577,906.49	2/12/2014
OBBO-278	679 Mill Rd	Staten Island, NY 10306	\$410,000.00	\$460,000.00	\$398,134.17	2/12/2014
OBBO-302	130 Dugdale St	Staten Island, NY 10306	\$450,000.00	\$500,000.00	\$450,000.00	2/12/2014
OBBO-343	589 Mill Rd	Staten Island, NY 10306	\$440,000.00	\$490,000.00	\$440,000.00	2/12/2014
OBBO-248	19 Delwit Ave	Staten Island, NY 10306	\$435,000.00	\$485,000.00	\$410,770.24	2/13/2014
OBBO-286	657 Mill Rd	Staten Island, NY 10306	\$390,000.00	\$440,000.00	\$390,000.00	2/13/2014
OBBO-332	572 Riga St	Staten Island, NY 10306	\$430,000.00	\$480,000.00	\$429,992.63	2/13/2014
OBBO-031	102 Foxbeach Ave	Staten Island, NY 10306	\$510,000.00	\$560,000.00	\$405,421.39	2/14/2014
OBBO-082a	108 Kissam Ave	Staten Island, NY 10306	\$350,000.00	\$400,000.00	\$190,000.00	2/14/2014
OBBO-178	99 Kissam Ave	Staten Island, NY 10306	\$275,000.00	\$325,000.00	\$275,000.00	2/14/2014
OBBO-246	15 Delwit Ave	Staten Island, NY 10306	\$470,000.00	\$520,000.00	\$462,850.64	2/14/2014
OBBO-277	681 Mill Rd	Staten Island, NY 10306	\$410,000.00	\$460,000.00	\$410,000.00	2/14/2014
OBBO-284	661 Mill Rd	Staten Island, NY 10306	\$375,000.00	\$425,000.00	\$358,338.64	2/14/2014
OBBO-296	148 Dugdale St	Staten Island, NY 10306	\$480,000.00	\$530,000.00	\$480,000.00	2/14/2014
OBBO-301	132 Dugdale St	Staten Island, NY 10306	\$445,000.00	\$495,000.00	\$444,504.99	2/18/2014
OBBO-078	52 Tarlton St	Staten Island, NY 10306	\$430,000.00	\$480,000.00	\$423,992.38	2/20/2014
OBBO-013	98 Foxbeach Ave	Staten Island, NY 10306	\$445,000.00	\$495,000.00	\$445,000.00	2/25/2014

Page 6 of 9

OBB0-035	100 Fox Ln	Staten Island, NY 10306	\$265,000.00	\$315,000.00	\$182,021.89	2/25/2014
OBB0-046	91 Tarlton St	Staten Island, NY 10306	\$470,000.00	\$520,000.00	\$405,756.99	2/25/2014
OBB0-250	23 Delwit Ave	Staten Island, NY 10306	\$420,000.00	\$470,000.00	\$412,097.34	2/25/2014
OBB0-050a	94 Foxbeach Ave	Staten Island, NY 10306	\$265,000.00	\$315,000.00	\$200,385.71	2/27/2014
OBB0-135	71 Tarlton Street 109, 111 and 113	Staten Island, NY 10306	\$290,000.00	\$340,000.00	\$240,260.75	2/27/2014
OBB0-136	Foxbeach Ave	Staten Island, NY 10306	\$525,000.00	\$575,000.00	\$405,595.54	2/27/2014
OBB0-249	21 Delwit Ave	Staten Island, NY 10306	\$460,000.00	\$510,000.00	\$460,000.00	2/27/2014
OBB0-285	659 Mill Rd	Staten Island, NY 10306	\$390,000.00	\$440,000.00	\$389,401.13	2/27/2014
OBB0-128	61 Tarlton St	Staten Island, NY 10306	\$405,000.00	\$455,000.00	\$405,000.00	2/28/2014
OBB0-290	540 Merkel Pl	Staten Island, NY 10306	\$625,000.00	\$675,000.00	\$625,000.00	3/4/2014
OBB0-344	591 Mill Rd	Staten Island, NY 10306	\$350,000.00	\$400,000.00	\$350,000.00	3/5/2014
SV-014	90 Terry St	Sayville, NY 11782	\$580,000.00	\$630,000.00	\$580,000.00	3/6/2014
SV-015	56 Terry St	Sayville, NY 11782	\$440,000.00	\$490,000.00	\$437,674.39	3/6/2014
OBB0-173	56 Tarlton St	Staten Island, NY 10306	\$430,000.00	\$480,000.00	\$428,947.42	3/7/2014
LH-051	885 S Bay St	Lindenhurst, NY 11757	\$260,000.00	\$310,000.00	\$259,152.32	3/13/2014
OBB0-139	150 Foxbeach Ave	Staten Island, NY 10306	\$440,000.00	\$490,000.00	\$426,901.91	3/14/2014
SC-030	31E Santa Barbara Rd	Lindenhurst, NY 11757	\$390,000.00	\$440,000.00	\$367,833.38	3/20/2014
OBB0-055	117 Tarlton St	Staten Island, NY 10306	\$340,000.00	\$390,000.00	\$270,835.95	3/20/2014
OBB0-304	537 Merkel Pl	Staten Island, NY 10306	\$465,000.00	\$515,000.00	\$465,000.00	3/20/2014
OBB0-339	154 Aviston St	Staten Island, NY 10306	\$455,000.00	\$505,000.00	\$449,554.55	3/20/2014
OBB0-019a	72 Kissam Ave	Staten Island, NY 10306	\$320,000.00	\$370,000.00	\$172,276.00	3/21/2014
OBB0-319	157 Dugdale St	Staten Island, NY 10306	\$700,000.00	\$750,000.00	\$700,000.00	3/21/2014
OBB0-074	73 Tarlton St	Staten Island, NY 10306	\$425,000.00	\$475,000.00	\$397,686.86	3/24/2014
OBB0-327	584 Riga St	Staten Island, NY 10306	\$460,000.00	\$510,000.00	\$460,000.00	3/25/2014
OBB0-347	597 Mill Rd	Staten Island, NY 10306	\$420,000.00	\$470,000.00	\$420,000.00	3/25/2014
OBB0-358	617 Mill Rd	Staten Island, NY 10306	\$465,000.00	\$515,000.00	\$465,000.00	3/25/2014
OBB0-259	45 Delwit Ave	Staten Island, NY 10306	\$430,000.00	\$480,000.00	\$430,000.00	3/27/2014
OBB0-359	595 Riga St	Staten Island, NY 10306	\$475,000.00	\$525,000.00	\$445,765.09	3/27/2014
OBB0-361	591 Riga St	Staten Island, NY 10306	\$450,000.00	\$500,000.00	\$450,000.00	3/27/2014
OBB0-124	74 Tarlton St	Staten Island, NY 10306	\$260,000.00	\$310,000.00	\$163,913.56	3/28/2014
OBB0-291	538 Merkel Pl	Staten Island, NY 10306	\$565,000.00	\$615,000.00	\$537,671.87	3/28/2014
OBB0-325	131 Dugdale St	Staten Island, NY 10306	\$480,000.00	\$530,000.00	\$470,482.13	3/31/2014
LH-133	836 Atlantic St	Lindenhurst, NY 11757	\$350,000.00	\$400,000.00	\$326,702.35	4/2/2014
SV-012a	46 Terry St	Sayville, NY 11782	\$700,000.00	\$750,000.00	\$618,835.86	4/2/2014
OBB0-012	67 Kissam Ave	Staten Island, NY 10306	\$370,000.00	\$420,000.00	\$202,506.06	4/4/2014
OBB0-045	95 Kissam Ave	Staten Island, NY 10306	\$380,000.00	\$430,000.00	\$144,636.31	4/4/2014

Page 7 of 9



OBB0-072	179 Foxbeach Ave	Staten Island, NY 10306	\$283,000.00	\$333,000.00	\$231,930.18	4/4/2014
OBB0-368	573 Riga St	Staten Island, NY 10306	\$500,000.00	\$550,000.00	\$483,725.32	4/4/2014
OBB0-122	83 Foxbeach Ave	Staten Island, NY 10306	\$180,000.00	\$230,000.00	\$133,996.00	4/7/2014
OBB0-310	521 Merkel Pl	Staten Island, NY 10306	\$450,000.00	\$500,000.00	\$450,000.00	4/8/2014
OBB0-366	579 Riga St	Staten Island, NY 10306	\$455,000.00	\$505,000.00	\$455,000.00	4/8/2014
OBB0-069	162 Foxbeach Ave	Staten Island, NY 10306	\$280,000.00	\$330,000.00	\$128,998.51	4/10/2014 OBB0-
360	593 Riga St	Staten Island, NY 10306	\$470,000.00	\$520,000.00	\$470,000.00	4/10/2014
OBB0-305	533 Merkel Pl	Staten Island, NY 10306	\$450,000.00	\$500,000.00	\$448,441.89	4/11/2014 OBB0-
335	566 Riga St	Staten Island, NY 10306	\$410,000.00	\$460,000.00	\$410,000.00	4/11/2014
OBB0-079a	222 Fox Ln	Staten Island, NY 10306	\$350,000.00	\$400,000.00	\$223,370.11	4/14/2014 OBB0-
321	147 Dugdale St	Staten Island, NY 10306	\$630,000.00	\$680,000.00	\$609,555.93	4/15/2014 OBB0-
134	167 Foxbeach Ave	Staten Island, NY 10306	\$475,000.00	\$525,000.00	\$473,297.87	4/22/2014 OBB0-
336	564 Riga St	Staten Island, NY 10306	\$410,000.00	\$460,000.00	\$410,000.00	4/22/2014 OBB0-
251	25 Delwit Ave	Staten Island, NY 10306	\$425,000.00	\$475,000.00	\$424,788.75	4/24/2014 OBB0-
255	37 Delwit Ave	Staten Island, NY 10306	\$425,000.00	\$475,000.00	\$425,000.00	4/24/2014 OBB0-
409	74 Foxbeach Ave	Staten Island, NY 10306	\$410,000.00	\$460,000.00	\$410,000.00	4/29/2014 FL-
052	287 Royal Ave	Riverhead, NY 11901	\$435,000.00	\$485,000.00	\$405,858.49	4/30/2014 FL-
105	31 Pine Ave	Riverhead, NY 11901	\$200,000.00	\$250,000.00	\$200,000.00	4/30/2014 LH-
023	906 Arctic St	Lindenhurst, NY 11757	\$375,000.00	\$425,000.00	\$335,444.77	4/30/2014 OAK-
006	438 Shore Dr	Oakdale, NY 11769	\$910,000.00	\$960,000.00	\$729,750.00	4/30/2014
OBB0-258	43 Delwit Ave	Staten Island, NY 10306	\$420,000.00	\$470,000.00	\$412,438.13	5/1/2014
OBB0-330	576 Riga St	Staten Island, NY 10306	\$430,000.00	\$480,000.00	\$430,000.00	5/1/2014
OBB0-365	581 Riga St	Staten Island, NY 10306	\$460,000.00	\$510,000.00	\$457,384.08	5/1/2014
OBB0-263	56 Delwit Avenue	Staten Island, NY 10306	\$420,000.00	\$470,000.00	\$416,546.77	5/2/2014
OBB0-155	7 Kissam Ave	Staten Island, NY 10306	\$440,000.00	\$490,000.00	\$440,000.00	5/3/2014
MB-028a	75 Laurelton Dr	Mastic Beach, NY 11951	\$125,000.00	\$175,000.00	\$125,000.00	5/7/2014
VP-023	376 Rider Ave	Patchogue, NY 11772	\$350,000.00	\$400,000.00	\$268,899.18	5/7/2014
OBB0-293	528 Merkel Pl	Staten Island, NY 10306	\$550,000.00	\$600,000.00	\$540,805.98	5/16/2014 OBB0-
254	35 Delwit Ave	Staten Island, NY 10306	\$480,000.00	\$530,000.00	\$480,000.00	5/19/2014
OBB0-266	50 Delwit Ave	Staten Island, NY 10306	\$425,000.00	\$475,000.00	\$407,621.99	5/19/2014 OBB0-
269	44 Delwit Ave	Staten Island, NY 10306	\$420,000.00	\$470,000.00	\$420,000.00	5/19/2014
OBB0-092	485 Promenade Ave	Staten Island, NY 10306	\$355,000.00	\$405,000.00	\$305,000.00	5/20/2014 OBB0-
300	136 Dugdale St	Staten Island, NY 10306	\$500,000.00	\$550,000.00	\$500,000.00	5/20/2014
OBB0-467	0 Promenade Ave	Staten Island, NY 10306	\$128,000.00	\$138,000.00	\$128,000.00	5/20/2014 FL-
034	154 Temple Ave	Riverhead, NY 11901	\$210,000.00	\$260,000.00	\$210,000.00	5/21/2014 FL-
079	26 Pine Ave	Riverhead, NY 11901	\$235,000.00	\$285,000.00	\$139,954.45	5/21/2014
FL-131	25 Oaks Ave	Riverhead, NY 11901	\$240,000.00	\$290,000.00	\$240,000.00	5/21/2014

Page 8 of 9

LH-128	854 Atlantic St	Lindenhu NY 11757	\$250,000.00	\$310,000.00	\$209,276.68	5/21/2014
LH-160	23 Bayview Ave E	Lindenhurst, NY 11757	\$465,000.00	\$515,000.00	\$392,866.85	5/21/2014
MB-006	144 Hickory Rd	Mastic Beach, NY 11951	\$110,000.00	\$160,000.00	\$110,000.00	5/21/2014
OBB0-265	52 Delwit Ave	Staten Island, NY 10306	\$420,000.00	\$470,000.00	\$405,49.43	5/27/2014
OBB0-311	519 Merkel Pl	Staten Island, NY 10306	\$450,000.00	\$500,000.00	\$450,000.00	5/27/2014
OBB0-338	560 Riga St	Staten Island, NY 10306	\$425,000.00	\$475,000.00	\$425,000.00	5/27/2014
OBB0-519	58 Delwit Ave	Staten Island, NY 10306	\$875,000.00	\$925,000.00	\$729,750.00	5/27/2014
OBB0-314	624 Riga St	Staten Island, NY 10306	\$510,000.00	\$560,000.00	\$462,15.52	6/5/2014
OBB0-039	460 Mill Rd	Staten Island, NY 10306	\$430,000.00	\$480,000.00	\$392,15.15	6/10/2014
OBB0-313	626 Riga St	Staten Island, NY 10306	\$575,000.00	\$625,000.00	\$575,000.00	6/10/2014
OBB0-342	160 Aviston St	Staten Island, NY 10306	\$390,000.00	\$440,000.00	\$369,646.22	6/12/2014
OBB0-303	539 Merkel Pl	Staten Island, NY 10306	\$500,000.00	\$550,000.00	\$496,974.20	6/13/2014
OBB0-322	143 Dugdale St	Staten Island, NY 10306	\$680,000.00	\$730,000.00	\$678,995.13	6/13/2014
OBB0-282	671 Mill Rd	Staten Island, NY 10306	\$470,000.00	\$520,000.00	\$447,975.28	6/17/2014
LH-031	858 Arctic St	Lindenhurst, NY 11757	\$425,000.00	\$475,000.00	\$401,278.38	6/18/2014
LH-050	877 S Bay St	Lindenhurst, NY 11757	\$245,000.00	\$295,000.00	\$233,230.40	6/18/2014
VP-035	14 Dewitt Ave	Patchogue, NY 11772	\$300,000.00	\$350,000.00	\$172,062.3	6/18/2014
OBB0-076	77 Tarlton St	Staten Island, NY 10306	\$425,000.00	\$475,000.00	\$403,89.15	6/23/2014
OBB0-098	149 Foxbeach Ave	Staten Island, NY 10306	\$500,000.00	\$550,000.00	\$406,751.71	6/23/2014
OBB0-110	75 Tarlton St	Staten Island, NY 10306	\$400,000.00	\$450,000.00	\$397,375.79	6/23/2014
OBB0-299	138 Dugdale St	Staten Island, NY 10306	\$460,000.00	\$510,000.00	\$460,000.00	6/24/2014
FL-062	298 Royal Ave	Riverhead, NY 11901	\$300,000.00	\$350,000.00	\$292,703.2	6/25/2014
FL-104	27 Pine Ave	Riverhead, NY 11901	\$225,000.00	\$275,000.00	\$183,93.44	6/25/2014
MB-082a	53 Violet Rd	Mastic Beach, NY 11951	\$160,000.00	\$210,000.00	\$160,000.00	6/25/2014
OAK-013	567 Shore Dr	Oakdale, NY 11769	\$510,000.00	\$560,000.00	\$441,616.37	6/25/2014
VP-044	489 Bay Ave	Patchogue, NY 11772	\$330,000.00	\$380,000.00	\$328,870.20	6/25/2014
VS-005	842 Granada Pkwy	Lindenhurst, NY 11757	\$395,000.00	\$445,000.00	\$382,243.6	6/25/2014
OBB0-280	675 Mill Rd	Staten Island, NY 10306	\$430,000.00	\$480,000.00	\$430,000.00	6/26/2014
OBB0-363	585 Riga St	Staten Island, NY 10306	\$480,000.00	\$530,000.00	\$480,000.00	6/26/2014
			TOTAL EST PROJECT COST	\$111,559,000.00		



U.S. Department of Homeland Security  
Region II  
Jacob K. Javits Federal Office Building  
25 Federal Plaza, Room 1311  
New York, New York 10278-0002

**FEMA**

October 27, 2014

Mr. Andrew X. Feeney  
Deputy Commissioner for Special Programs  
New York State Division of Homeland Security and Emergency Services  
Building 7A, Suite 710  
1220 Washington Avenue  
Albany, NY 12242

RE: FEMA Response to State Global Match Strategy for Disasters:  
FEMA-4085-DR-NY, FEMA-4031-DR-NY  
FEMA-4020-DR-NY, FEMA-1993-DR-NY  
FEMA-1957-DR-NY

Dear Mr. Feeney:

The Federal Emergency Management Agency (FEMA) is providing formal concurrence to the Governor's Office of Storm Recovery (GOSR) and the New York State Division of Homeland Security and Emergency Services (DHSES) for the State's implementation of a Global Match strategy for the listed major disaster declarations. The State's strategy to meet the Hazard Mitigation Grant Program (HMGP) non-Federal cost share requirement under for each of the above listed major disaster declarations has been presented and modified in a series of state meetings and correspondence with FEMA since April 2014.

As requested by the State, FEMA authorized the statewide use of HMGP funding for each of the listed disasters. The State must provide a minimum 25 percent non-Federal match share for each disaster based upon the total HMGP allocation identified by the FEMA Office of the Chief Financial Officer (OCFO). FEMA policy allows the State to determine the non-Federal cost share of individual projects so long as the HMGP total 25 percent non-Federal match is met by the State. The current OCFO projection of HMGP funding is as follows:

Disaster	Federal Share Lock-in Ceiling	State Share Required for Ceiling
1957	\$7,050,375	\$2,350,125
1993	\$5,264,029	\$1,754,676
4020	\$89,157,146	\$29,719,049
4031	\$39,347,912	\$13,115,971
4085	\$923,647,392	\$307,882,464

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FEMA is approving the State's Global Match strategy to utilize a combination of acquisition and infrastructure projects in storm-affected communities to meet the non-federal match obligation for Hurricane Sandy (DR 4085) and the past events listed. All mitigation measures approved under the State's grant will be subject to the cost sharing provisions established in the FEMA-State Agreement. The non-Federal share provided for each disaster or project may exceed the Federal share; however, FEMA will not contribute to costs above the federally approved estimate.

The State's strategy includes the use of the Housing and Urban Development (HUD) Community Development Block Grant Disaster Recovery (CDBG-DR) funds and projects (managed by the New York State Department of Homes and Community Renewal under GOSR) to meet or offset the State's 25 percent HMGP non-Federal cost share requirement. Other projects, including several sponsored by the City of New York and major State authorities, would have non-Federal matching funds provided directly by the applicant. In total, these actions would allow the State to meet the non-federal match requirement for each of the listed major disaster declarations. Both FEMA and the State recognize that this process requires on-going revision of project lists and adjustment of the Federal cost-share for individual projects to finalize the State's match requirements.

FEMA, DHSES, and the GOSR have been actively coordinating the Global Match strategy since April of 2014; the State has submitted various correspondences for which prior verbal concurrence was provided. On August 29, 2014, FEMA approved the State's update of the HMGP Administrative Plan for the listed declarations, which was revised by DHSES and submitted to FEMA on August 12, 2014 to incorporate the State's Global match strategy. In September 2014, as part of the State's Global match strategy, FEMA obligated an additional \$20.3 million to increase the federal funding from 75 to 100 percent for acquisition and elevation projects already funded under Hurricane Irene (DR 4020) and Tropical Storm Lee (DR 4031).


FEMA will continue to coordinate with GOSR and DHSES to implement and finalize the Global match coordination. In order to achieve this action, DHSES and GOSR must submit to FEMA complete mitigation project applications funded under non-FEMA sources to be utilized for HMGP program cost share credit. All projects submitted must meet the eligibility requirements of FEMA's HMGP.

As GOSR and DHSES are aware, the application periods for all disasters prior to DR 4085 are closed. Therefore, FEMA can accept only applications that would acquire, elevate, or relocate eligible properties to be funded using 100 percent CDBG-DR (or non-FEMA funding) and identified as projects to offset the cost share for DR 1957, DR 1993, DR 4020 and 4031. In addition, FEMA funding of \$8.7 million under DR 4020 and \$23.9 million under DR 4031 remains available. This funding is identified under two incomplete applications for the acquisition, elevation, or relocation of properties. In order to utilize this funding, and ensure the appropriate Federal-State cost share, FEMA requests that all of the cost-share applications under the listed disasters prior to DR 4085 and the remaining properties to be funded under DR 4020 and DR 4031 be provided to FEMA within 60 days of the receipt of this correspondence.

Andrew X. Feeney  
October 27, 2014  
Page 3 of 3

Should you or your staff require additional information, Mitigation Director Michael F. Moriarty is available at (212) 680-8810.

Sincerely,



Jerome Hatfield  
Regional Administrator  
FEMA Region II

Cc: James Rubin, Director, Governor's Office of Storm Recovery  
Laura Phillips, Executive Director of the Sandy Recovery Office

## Appendix 12 – NY Prize CDBG-DR Risk Assessment Tool



### Microgrid, NY Community Microgrid Proposal NYSERDA Stage 1 Feasibility Risk Assessment

County Project Location - Check for Presidentially Declared Disaster	County, NY (Name, Unnamed, Not Declared) Refer to PL 113-2 and GOSR Storm Damage by County Map dated 01-06-2015 )
Potential CDBG-DR National Objective	CDBG-DR funds expended for planning and administration costs under Sec. 570.205 and Sec. 570.206 will be considered to address the national objective.
Potential CDBG-DR Eligible Activity	Planning Activity

HGA: confirm county is eligible for CDBG-DR funds

HGA/GOSR Enter: (a) LMI (b) Urgent Need (c ) Slum Blight

HGA/GOSR Enter: Public Facility, Public Service, Economic Revitalization etc.

RATING	Low	Moderate	High
	1	2	3
Sponsoring Entity	- Unit of Local Government - Cities - Municipalities	- Non-Profit - State Agency - SBA Certified Business - Public Private Partnerships - Private Utility* - Private Corporation* - Individual*	
Tie to Presidential Declared Disaster	- Presidentially declared disaster area (single-County, town, village) - Indirect tie to one or more storm events	- Presidentially declared disaster area (multiple- County, town, village) - Indirect tie to one or more storm events	- Project location is not within a presidentially declared disaster County
Funding	- CDBG funds only - NYSERDA funds only	- Additional funds committed, single or multiple sources	- Other sources of funds indicated, but not committed
Environmental Factors	- Exempt or Categorically Excluded, Not Subject to 58.5	- Requires an Environmental Assessment (EA) or Categorically Excluded, Subject to 58.35(a) - Requires an Environmental Impact Statement (EIS)	
Land Acquisition/Relocation Factors	- No land acquisition required	- Land acquisition required	
Involvement by Additional Entities	- No other entities involved	- One or more additional entities involved	

RATING
1
1
1
1
1
1

Amount: \$

#### Project Assessment Summary:

<b>Risk Levels</b> 1 - Low (CDBG-DR Eligible) 2 - Moderate (Needs Modification) 3 - High (Not CDBG-DR Eligible)	<p>_____ risk level; (no) modifications required because the proposer is _____. The proposed Community Microgrid will be located within the _____ of _____ in _____ County, NY, a presidentially declared disaster area OR (a Not Declared county). The project is a CDBG-DR eligible activity pursuant to 24 CFR §570.205 and §570.206. The project beneficiaries include _____</p> <p><b>NOTE</b> that _____</p>
--	--

Risk Score

1

APPLICATION  
RISK LEVEL

CDBG OK

## Appendix 13 – GOSR Local Government and Critical Infrastructure Pre-Application



SUBRECIPIENT SUBMISSION AUTHORIZATION
AUTHORIZED BY:
PRINTED NAME:
TITLE:
DATE:

### PROJECT DESCRIPTION

#### 1. SUBRECIPIENT/APPLICANT NAME AND CONTACT PERSON:

Insert all contact information for both the subrecipient/applicant and the contact person. At a minimum, include the name, mailing and physical addresses, Federal ID Number, DUNS Number, and SAMS CAGE Code of the subrecipient and the name, telephone number, and email address of the contact person.

#### 2. PROJECT NAME AND ADDRESS:

Insert the physical address of the proposed project, or of the entity if the project is a program/planning activity. If a project does not have a physical address, then provide latitude/longitude of the project site.

**TARGET AREA:** State the geographical area or limited clientele to benefit from the project.

**LATITUDE/LONGITUDE OF PROJECT SITE:**

#### 3. CDBG-DR ELIGIBILITY:

State the eligible activity(ies), including the regulatory/statutory citations(s), and how this project fits that/those eligible activity(ies).

**HUD MATRIX CODE:** Please provide the HUD Matrix Code.

#### 4. NATIONAL OBJECTIVE:

State the National Objective and how the project meets that National Objective.

## 5. TOTAL PROJECT COSTS, SOURCE, STATUS, AND USE OF FUNDS:

PROJECT FUNDS	AMOUNT	SOURCE AND STATUS	USE
CDBG-DR	\$0.00		
LOCAL FUNDS	\$0.00		
PRIVATE FUNDS	\$0.00		
OTHER STATE FUNDS	\$0.00		
FEDERAL FUNDS	\$0.00		
OTHER FUNDS	\$0.00		
<b>TOTAL</b>	<b>\$0.00</b>		

## 6. PROJECT DESCRIPTION:

Insert concise description here. What is the project? What is being torn down, built, provided, etc.? What are the objectives of the project? What are the expected results? Does the project involve the construction of a new facility or modifications or repairs to an existing facility? Are any historic or landmarked properties impacted? Will the project break ground? Is land acquisition involved? What are the previous and proposed uses of the impacted property or site?

### PROJECT STATUS:

Has any component (i.e., procurement of A/E, construction, etc.) of the project begun:

☐ No ☐ Yes

If yes, please provide a description as to which project activities (1) have been completed; (2) are currently underway and the percent complete; and, (3) if the intent is to use CDBG-DR funds to pay for activities either completed or currently underway.

### PROJECT CONTEXT:

Narrative should provide answers to questions such as: Is this part of a larger plan/project? If so, is it sufficiently separate from that plan or project, in the sense that it does not rely on it and does not trigger CDBG-DR requirements on other parts of the plan/project?

### BENEFICIARIES/PUBLIC BENEFIT/TARGET AREA:

Provide a narrative answering questions such as: Who are the beneficiaries? What are the benefits to these beneficiaries, and where do they live?

### RECOVERY RATIONALE:

Provide a narrative answering questions such as: How does this project address the impacts of Superstorm Sandy, Hurricane Irene, or Tropical Storm Lee? How does it foster the recovery of the community from these disasters?

### DESCRIPTION OF CONSTRUCTION INVOLVED:

Provide a narrative answering questions such as: How extensive is the proposed construction? Is there digging/earthwork, etc.? The purpose of this subsection is to assist in determining the level of environmental review required.

**DESCRIPTION OF ACQUISITION INVOLVED:**

Describe the nature of any necessary land or property acquisition.

**MITIGATION/RESILIENCY PLAN:**

Provide a description as to how the design of the project considers and/or proposes a mitigation/resiliency plan to minimize damage in the event of future flooding or extreme weather.

**7. PROJECT FEASIBILITY:**


Provide a narrative as to the likelihood of the project being implemented. Is it contained in a NY Rising Community Reconstruction Plan? Does it have any necessary stakeholder support? Are there any significant regulatory hurdles to overcome, and are any problems or issues with entitlement anticipated? If the project requires additional financial support beyond the NY Rising Community Reconstruction Program funding, are those funds committed?

**8. CONCEPTUAL SITE PLAN:**

Provide a conceptual site plan depicting location of the project.



## Appendix 14 – GOSR Local and Critical Infrastructure Application

	<b>STATE OF NEW YORK</b> <b>INSERT NAME OF SUBRECIPIENT</b>
	<b>NY STATE</b> <b>CDBG-DISASTER RECOVERY PROGRAM</b>
	<b>APPLICATION FOR FUNDING</b> <b>INSERT NAME OF PROJECT</b>
	<b>INSERT MONTH, YEAR</b>
	<b>PREPARED BY</b> <b>HUNT, GUILLOT, &amp; ASSOCIATES, LLC</b> <b>25 BEAVER STREET</b> <b>2<sup>ND</sup> FLOOR</b> <b>NEW YORK, NEW YORK 10004</b> <b>(646) 797-4993</b>

## TABLE OF CONTENTS

	<b>Page</b>
General Description Form .....	1
Supplemental Information Form.....	2
Budget/Cost Summary Form.....	5
CDBG-DR Program Time Schedule .....	6
Activity Beneficiary Form .....	7
Vicinity Map .....	8
Target Area Map(s) .....	9
Project Site Map(s).....	10
Project Description.....	11
Architect's/Engineer's Cost Estimate .....	12
Disclosure Report .....	13
Appendices.....	14
<b>Appendix A</b>	
Insert Name of Document Contained in Appendix	
<b>Appendix B</b>	
Insert Name of Document Contained in Appendix	
<b>Appendix C</b>	
Proof of Publication of Public Notice	
Requesting Public Comment on Submission of Application for Funding	

### General Description Form

Place a check mark in the appropriate box: ☒ Original Application ☐ Amended Application

Applicant Name, Address, Phone and Fax Nos.:		Project Name:
		Project Address:
Applicant's Contact Person Name, Address, Phone Number, Email Address, DUNS Number, and SAM CAGE Code Number.		Name, Address, Phone Number and Email Address of HGA Administrative Consultant: <i>(if applicable)</i>
		Name, Address, Phone Number and Email Address of GOSR Project Manager:
Name, Address, Phone Number and Email Address of Architectural/Engineering Firm:		National Objective to be Addressed (check one). <div style="margin-left: 20px;"> <input type="checkbox"/> Activities Benefiting Low/Moderate Income Persons  <input type="checkbox"/> Prevention/Elimination of Slums or Blight  <input type="checkbox"/> Urgent Need  <input type="checkbox"/> Not Applicable—Planning </div>
Project Funds	Amount	Source and Status of Funds
CDBG-DR	\$0.00	
Local Funds	\$0.00	
Private Funds	\$0.00	
Other State Funds	\$0.00	
Federal Funds (non-CDBG-DR)	\$0.00	
Other Funds	\$0.00	
TOTAL FUNDS	\$0.00	
Signature (Authorizing Official) and Date Signed		Typed Name/Title (Authorizing Official)

[illegible]

6. Indicate by means of an "x" as to whether the proposed project will involve a community-wide benefit or a target area(s) and enter the zip code of the project. If a target area is involved, enter the name(s) and zip code of the target area(s).

\_\_\_\_ Community-wide (Zip Code: \_\_\_\_\_)      \_\_\_\_ Target Area(s)

Name and Zip Code of Target Area: \_\_\_\_\_

Name and Zip Code of Target Area: \_\_\_\_\_

Name and Zip Code of Target Area: \_\_\_\_\_

Community-wide projects should use the zip code of the location of city hall. Target-area projects should use the zip code of the target area where the majority of the construction funds will be spent (for each target area). If the target area(s) does not have a name, please provide a brief geographical description of the area such as "western portion of the city."

7. Provide Lat/Long for the Project Location at or near the geographical center:

Latitude: \_\_\_\_\_ Longitude: \_\_\_\_\_

8. How many other projects funded with CDBG-DR funds relate to the project: \_\_\_\_

9. Does the project relate to any other project GOSR should be aware? \_\_\_\_\_

10. Does the project encompass multiple counties: \_\_\_\_\_ Yes      \_\_\_\_\_ No

11. If the proposed project is a "covered project," please provide a narrative describing the "Resilience Performance Standards" to be used in the design/implementation of the project below.

12. If the proposed project is a "covered project," please provide a narrative describing the "Green Infrastructure Project Activities" to be used in the design/implementation of the project below. For the purpose of completing this section, green infrastructure is defined as the integration of natural systems and processes, or engineered systems that mimic natural systems and processes, into investments in resilient infrastructure. "Green Infrastructure" takes advantage of the services and natural defenses provided by land and water systems such as wetlands, natural areas, vegetation, sand dunes, and forests, while contributing to the health and quality of life of those in recovering communities.

13. If the proposed project is a "covered project," please provide a narrative describing the "Transparent and Inclusive Decision Processes" undertaken in selection of the proposed project. Include accessible public hearings and other processes to advance the engagement of vulnerable populations.

14. If the proposed project is a "covered project," please provide a narrative describing the "Long Term Efficacy and Fiscal Sustainability" plans to monitor and evaluate efficacy and sustainability, including how it will reflect changing environmental conditions (such as sea level rise or development patterns) with risk management tools, and/or alternate funding sources, if necessary.

15. If the proposed project is a "covered project," please provide a narrative describing how the project will align with the commitment expressed in the President's Climate Action Plan to "identify and evaluate additional approaches to improve our natural defenses against extreme weather, protect biodiversity, and conserve natural resources in the face of changing climate..."
16. Has an amendment to the Action Plan to include this project been submitted to HUD?  
☐ Yes; ☐ No;
17. What is the status of the amendment request? Provide a narrative describing the status of the amendment request. (Include date of submission, date of approval, any requests for additional information, and current status)
18. Is this project receiving FEMA Public Assistance funding: ☐ Yes ☐ No
19. Is this project receiving FEMA Public Assistance 406 Hazard Mitigation Funds:  
☐ Yes ☐ No  
 Please provide the FEMA Project Worksheet number(s) for this project application: \_\_\_\_\_  
 (The FEMA project work sheet number should include the FEMA disaster declaration number in the first four (4) digits and the project worksheet number in the last five (5) digits. A Hurricane Sandy related project with the project worksheet "567" would be entered as "4085-00567")
20. Is this project receiving FEMA Section 404 Hazard Mitigation funds:  
☐ Yes ☐ No
21. Is this project receiving any Army Corps of Engineers funding:  
☐ Yes ☐ No  
 If yes, please provide the type of funds applied for and application number: \_\_\_\_\_
22. Is this project receiving any Environmental Protection Agency funds:  
☐ Yes ☐ No  
 If yes, please provide the type of funds applied for and application number: \_\_\_\_\_
23. Is this project receiving any Department of Energy funds:  
☐ Yes ☐ No  
 If yes, please provide the type of funds applied for and application number: \_\_\_\_\_
24. Is this project receiving any Department of Transportation funds:  
☐ Yes ☐ No  
 If yes, please provide the type of funds applied for and application number: \_\_\_\_\_
25. Is this project receiving any Department of the Interior fund:  
☐ Yes ☐ No  
 If yes, please provide the type of funds applied for and application number: \_\_\_\_\_



**BUDGET/COST SUMMARY FORM**

**PROJECT NAME:**

(A) Costs by Activity	(B) CDBG-DR	(C) Other	(D) Total	(E) Source
1. Acquisition of Real Property	\$0.00	\$0.00	\$0.00	
2. Public Facilities and Improvements	\$0.00	\$0.00	\$0.00	
3. Rehabilitation Loans and Grants (Hook-ups)	\$0.00	\$0.00	\$0.00	
4. Clearance Activities	\$0.00	\$0.00	\$0.00	
5. Public Services	\$0.00	\$0.00	\$0.00	
6. Other (identify) - Planning	\$0.00	\$0.00	\$0.00	
7. Project Delivery Costs	\$0.00	\$0.00	\$0.00	
8. Administration	\$0.00	\$0.00	\$0.00	
<b>TOTAL</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	

Architectural/Engineering (A/E) costs must be included in one of the activity costs above.

HUD Matrix Code: (Can be found at <http://www.hud.gov/offices/cpd/systems/idis/cdbg/Matrix%20Code%20Definitions.pdf>)

\_\_\_\_\_

CDBG-DR PROGRAM TIME SCHEDULE						APPLICANT NAME:						
MILESTONES	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Quarter 5	Quarter 6	Quarter 7	Quarter 8	Quarter 9	Quarter 10	Quarter 11	Quarter 12
Activity (list activity from budget/cost summary form)												
a. Study (H&H, Feasibility, etc.)												
b. Environmental Review												
c. A/E Design												
d. Construction												
e. Closeout												
Activity (list activity from budget/cost summary form)												
a. Acquisition												

Provide the following dates:

\*Required

\*ERR Complete Date: \_\_\_\_\_

Construction Start Date: \_\_\_\_\_

\*Construction End Date: \_\_\_\_\_

Acquisition/Closing: \_\_\_\_\_

Design Complete: \_\_\_\_\_

Page 6

ACTIVITY BENEFICIARY FORM						
Community-Wide $\Delta$ TargetArea $\Delta$ Combined				Project: Insert Name of Project Here		
List name of each activity excluding Admin & Acquisition:	1)		2)		3)	
	#	%	#	%	#	%
Persons (total):						
Total LMI Income:						
Low Income:						
Owner (for Rehab activity only, i.e. hookups):						
Renter (for Rehab activity only, i.e. hookups):						
Moderate Income:						
Owner (for Rehab activity only, i.e. hookups):						
Renter (for Rehab activity only, i.e. hookups):						
Medium Income:						
Owner (for Rehab activity only, i.e. hookups):						
Renter (for Rehab activity only, i.e. hookups):						
Race and Ethnicity	Percent (%)		Percent (%)		Percent (%)	
White:						
Black or African American:						
American Indian or Alaskan Native:						
Asian:						
Native Hawaiian or Other Pacific Islander:						
Other:						
Hispanic or Latino						
<p><b>Data Sources:</b>            Low and moderate income persons for area benefit activities were determined using the 2006-2010 American Community Survey.</p> <p>Percentages for race and ethnicity for area benefit activities were determined using the Census 2010 SF-1 100% data, Tables P3-Race, and P4-Hispanic or Latino Origin.</p>						

## VICINITY MAP



## TARGET AREA MAP

Page 9

## PROJECT SITE MAP

Page 10



PROJECT NAME:	Insert Name of Project Here
PROJECT DESCRIPTION:	Page ? of ?

**PROJECT DESCRIPTION.**

Insert Project Description Here

<b>ARCHITECT/ENGINEER'S COST ESTIMATE</b>	
<b>Estimated Number of Parcels to be Acquired:</b>	<b>Not Applicable</b>
<b>Anticipated Approvals/Permits to be Acquired:</b>	<b>Not Applicable</b>

**PROJECT BUDGET**

INSERT PROJECT BUDGET HERE

# Applicant/Recipient Disclosure/Update Report

U.S. Department of Housing  
and Urban Development

OMB Approval No. 2510-0011 (exp. 8/31/2009)

**Instructions** (See Public Reporting Statement and Privacy Act Statement and detailed instructions on page 2.)

## Applicant/Recipient Information

Indicate whether this is an Initial Report ,

or an Update Report .

1. Applicant/Recipient Name, Address, and Phone (include area code):

2. Social Security Number or  
Employer ID Number:

3. HUD Program Name

Community Development Block Grant – Disaster Recovery Program

4. Amount of HUD Assistance  
Requested/Received

5. State the name and location (street address, City and State) of the project or activity:

## Part I Threshold Determinations

1. Are you applying for assistance for a specific project or activity?  
These terms do not include formula grants, such as public  
housing operating subsidy or CDBG block grants. (For further  
information see 24 CFR Sec. 4.3).

☐ Yes ☒ No

2. Have you received or do you expect to receive assistance within the  
jurisdiction of the Department (HUD) , involving the project or activity in this  
application, in excess of \$200,000 during this fiscal year (Oct. 1 - Sep. 30)?  
For further information, see 24 CFR Sec. 4.9

☐ Yes ☒ No

If you answered "No" to either question 1 or 2, **Stop!** You do not need to complete the remainder of this form.  
**However,** you must sign the certification at the end of the report.

## Part II Other Government Assistance Provided or Requested / Expected Sources and Use of Funds.

Such assistance includes, but is not limited to, any grant, loan, subsidy, guarantee, insurance, payment, credit, or tax benefit.

Department/State/Local Agency Name and Address	Type of Assistance	Amount Requested/Provided	Expected Uses of the Funds

(Note: Use Additional pages if necessary.)

## Part III Interested Parties. You must disclose:

- All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
- Any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds \$50,000 or 10 percent of the assistance (whichever is lower).

Alphabetical list of all persons with a reportable financial interest in the project or activity (For individuals, give the last name first)	Social Security No. or Employee ID No.	Type of Participation in Project/Activity	Financial Interest in Project/Activity (\$ and %)

(Note: Use Additional pages if necessary.)

## Certification

**Warning:** If you knowingly make a false statement on this form, you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosures of information, including intentional non-disclosure, is subject to civil money penalty not to exceed \$10,000 for each violation. I certify that this information is true and complete.

Signature:

X

Date: (mm/dd/yyyy)

Insert Typed Name and Title Here

Page 13

**APPENDIX A**  
**INSERT NAME OF DOCUMENT**

**Page 14**